

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.29022 of 2017

Arising Out of PS.Case No. -493 Year- 2015 Thana -BAKHTIARPUR District- SAHARSA

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Jagdish Bhagat Son of Late Shubhuk Lal Bhagat, Resident of Village- Rajanpur,
P.S.- Mahishi, District- Saharsa.

..... Petitioner/s

Versus

The State of Bihar

..... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. D.N. Tiwari, Advocate

For the State : Mr. T. P. Mandal, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 17-08-2017

Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner apprehends arrest in connection with
Bakhtiyarpur P.S. Case No. 493 of 2015 dated 30.12.2015 (Spl. Case
No. 1 of 2016) instituted under Section 7 of the Essential
Commodities Act.

3. The allegation against the petitioner, who is a PDS
Dealer, is of selling wheat given to him for distribution under the PDS
by the State in the blackmarket.

4. Learned counsel for the petitioner submitted that just



because he is a PDS Dealer, after more than a year of seizure being made, he has been made accused, along with others. Learned counsel submitted that during investigation, it has come that 64 bags of wheat had been taken by the petitioner under the PDS Scheme and late at night on 29.12.2015, when the seizure was made at 10:15 P.M. wheat which seized was not what had been taken by the petitioner, rather it belonged to various other persons. Learned counsel drew the attention of the Court to order dated 11.08.2016 passed by a co-ordinate Bench in C.W.J.C. No. 9336 of 2016 (Aman Kumar Singh and Others Vs. The State of Bihar and Others) by which the entire wheat seized was claimed by the said four persons and in whose favour the Court has also directed the wheat to be released. Learned counsel submitted that once other persons have come forward to claim the wheat and the same has also been released in their favour, the petitioner is clearly innocent. Learned counsel has also produced copies of various orders dated 17.02.2016 in Cr. Misc. No. 7124 of 2016 (Prem Kumar Bhagat @ Prem Kumar Vs. The State of Bihar), 12.04.2016 in Cr. Misc. No. 15165 of 2016 (Birendra Bhagat Vs. The State of Bihar), 20.04.2016 in Cr. Misc. No. 14366 of 2016 (Pawan Kumar Jaiswal @ Pawan Jaiswal) , 17.05.2016 in Cr. Misc. No. 17223 of 2016 (Khusi Lal Ram and Others Vs. The State of Bihar), 19.05.2016 in Cr. Misc. No. 20752 of 2016 (Aman Kumar Singh Vs. The State of Bihar),



14.07.2017 in Cr. Misc. No. 27642 of 2017 (Munishwar Prasad Singh @ Muneshwar Pd. Singh Vs. The State of Bihar) and 18.07.2017 in Cr. Misc. No. 26835 of 2017 (Indra Kumar Vs. The State of Bihar), by which other co-accused, including some PDS Dealers have been granted anticipatory bail.

5. Learned A.P.P., upon going through the case diary, submitted that earlier 64 bags of wheat were picked up by the petitioner from the BSFC godown. However, he is not in a position to controvert the submissions of learned counsel for the petitioner.

6. Considering the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned S.D.J.M., Saharsa in Bakhtiyarpur P.S. Case No. 493 of 2015 giving rise to Spl. Case No. 1 of 2016), subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973.

7. The petitioner and the bailors shall execute bond with regard to good behaviour of the petitioner. The petitioner shall also give an undertaking to the Court that he shall not indulge in any criminal activity. Any violation of the terms and conditions of the



bonds or the undertaking shall lead to cancellation of his bail bonds.

The petitioner shall cooperate in the trial and be present before the Court on each and every date. Failure to do so on two consecutive dates, without sufficient cause, shall also lead to cancellation of his bail bonds.

(Ahsanuddin Amanullah, J)

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