

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37942 of 2017

Arising Out of PS.Case No. -25 Year- 2017 Thana -PATLIPUTRA District- PATNA

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HEMANT KUMAR DAS son of Shri Awadhesh Kumar Das Managing
Director M/s. Natural Dairy (P) Ltd., resident of 504-A, White House
Apartment, Buddha Marg, P.S. Kotwali, District - Patna.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nikhil Kumar Agrawal, Adv.

For the Opposite Party/s : Sri Bharat Lal, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

2 16-08-2017 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner apprehends his arrest in connection
with G.R. No. 506 of 2017, arising out of Patliputra P.S. Case No.
25 of 2017 registered for the offence(s) punishable under
section(s) 268, 269, 270, 278, 284, 287, 291, 308/34 of the Indian
Penal Code.

This petitioner is Managing Director of M/s Natural
Dairy Private Limited which is situated at Patliputra Industrial
Area and allegation is that his dairy discharged ammonia polluted
water affecting the health of local people.

Learned counsel for the petitioner submits that there
is delay of more than month in lodging the FIR. There is violation



of section 43 of the AIR (Prevention and Control of Pollution) Act, 1981 which mandates that no cognizance should be taken unless complaint is filed by a competent authority. It has further been submitted that not a single person sustained any harm on account of alleged leakage of polluted water.

Learned Additional Public Prosecutor on the other hand opposes the submission and submits that without case diary he is unable to substantiate the allegation against the petitioner.

It appears that occurrence took place on 24.12.2016 whereas FIR has been lodged on 17.01.2017.

On perusal of section 43 of the aforesaid Act it appears that on mandate, no cognizance should be taken unless complaint is filed by a competent authority. Besides that the informant has cited that several persons reported that they suffered on account of leakage of ammonia polluted water, but learned counsel for the petitioner has submitted that not a single person cited or any report showing percentage of pollution in the water.

Considering the nature of allegation and facts and circumstances, as stated above, this application is allowed.

Let the petitioner, above named, in the event of arrest or surrender before the court below within a period of four weeks



from today, be released on bail on furnishing bail bond of Rs. 10,000/-(Ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Patna in connection with G.R. No. 506 of 2017, arising out of Patliputra P.S. Case No. 25 of 2017, subject to the condition as laid down under Section 438 (2) of the Criminal Procedure Code.

(Sanjay Kumar, J)

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