

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.158 of 2018

Arising Out of Fatuha P.S. Case No. 312/2013, Thana – Fatuha, District- Patna

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Sunil Kumar Singh, son of Late Sadanand Singh, resident of village – Khopati, P.S.
+ District – Madhepura, at presently posted as a block marketing officer, Bihar
State and Civil Supplies Co-operative Limited, Government of Bihar, Patna.

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Home Department,
Government of Bihar, Patna
2. The Principal Secretary, General Administrative Department, Govt. of Bihar,
Patna.
3. The District Magistrate, Patna.
4. The Senior Superintendent of Police, Patna.
5. The Additional Director General of Police cum Incharge, S.I.T., Bihar
6. The Inspector of Police, Fatuha P.S., District – Patna.
7. The Bihar State Food Corporation through its Managing Director, Daroga
Prasad Rai Path, Patna.
8. The Managing Director, Bihar State Food Corporation, Daroga Prasad Rai Path,
Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Shekhar Kumar Singh, Advocate

For the Respondent/s : Mr. Iqbal Asif Niazi, A.C. to G.P.5

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date: 05-02-2018

Heard learned counsel for the petitioner and
learned counsel representing the State.

2. The petitioner in the present case is aggrieved
by order dated 15.09.2017 passed by learned Judicial
Magistrate allowing the request of the Investigating Officer to
issue warrant of arrest against the not named accused persons
as well as the named accused person. A further prayer has
been made to stay the operation of the impugned order.

3. On perusal of the records, it appears that the



present case has been lodged on the basis of a written report of the District Manager, Bihar State Food and Civil Supplies Corporation Limited, Patna to the Officer-in-Charge, Fatuha Police Station.

4. The allegations are that altogether 29,200 quintals of paddy were supplied to the rice miller from different purchase centres but rice miller failed to supply the Customized Milled Rice (in short the 'CMR'). Premises of the mill was found closed. Allegations have been made in the written report that there had been misappropriation of huge public money by the rice miller which has resulted in a loss of Rs. 4,23,67,016.00 to the government.

5. It appears that the F.I.R. giving rise to Fatuha P.S. Case No. 312/2013 dated 12.09.2013 was initially lodged under Section 406/420 I.P.C., later further Sections of I.P.C. such as Section 409/467/468/471/120B were added, giving this case a conspiracy angle for the purpose of investigation.

6. The Investigating Officer in course of investigation submitted an application in the court of learned Judicial Magistrate in which he requested for issuance of warrant of arrest against the named as well as not named accused, as according to him, there were prima facie materials



which require their custodial interrogation. Learned Magistrate being satisfied with the materials available on the record passed an order issuing non-bailable warrant of arrest against 10 persons including the present petitioner.

7. Learned counsel representing the petitioner has vehemently argued against the impugned order and submitted that the learned Judicial Magistrate while issuing non-bailable warrant of arrest, on the request of the Investigating Officer, has failed to appreciate that this petitioner was not named in the F.I.R. and that in fact there is no material collected by the Investigating officer in course of investigation to connect him with the present case.

8. Learned counsel submits that the impugned order is bad in law inasmuch as it is not based on application of judicious mind and the impugned order has been passed without consideration of the materials available on the record. Learned counsel has also pointed out that three other similarly situated persons have preferred Cr.W.J.C. No. 1983/2017, Cr.W.J.C. No. 2096/2017 and Cr.W.J.C. No. 2430/2017 and on earlier occasion in those cases while directing for copy of the case diary, the court had stayed the operation of the impugned order.



9. Learned counsel representing the petitioner further submits that if this Court would look to the contents of the F.I.R. and the materials which have been collected in course of investigation, this Court would easily come to a conclusion that in fact there is no material against this petitioner and they are not required to be interrogated.

10. On the other hand, learned counsel representing the State submits that in the nature of the present case where the police is investigating a case involving such a huge misappropriation of government money from conspiracy angle also and the Investigating Officer wants custodial interrogation of named and some unnamed persons who were the officers of Bihar State Food and Civil Supplies Corporation, no illegality may be found in the steps taken by the Investigating Officer in procuring the warrant of arrest against those named as well as unnamed persons whose custodial interrogation are required.

11. Learned counsel representing the State submits that in its writ jurisdiction under Article 226 of the Constitution of India, this Court may not like to record its opinion or finding on the contents or quality of the materials collected by the Investigating Officer at this stage.



12. Learned counsel further submits that since no procedural illegality has been pointed out by learned counsel for the petitioner and nothing has been brought before this Court to show that while allowing issuance of non-bailable warrant the court below has violated any procedure of law prescribed under the Code of Criminal Procedure, this Court may not like to interfere with the investigation by quashing the impugned order. There is another reason for which the order is not required to be interfered with as stated by learned counsel for the State, i.e., if the contention of petitioner is that there is no material against him to connect with this case, he has a remedy by making an application for pre-arrest bail.

13. At this stage, learned counsel for the petitioner submits that he has already applied for the same.

14. Having considered the rival submissions made at the bar, I am of the considered opinion that the case has got a conspiracy angle, hence interference with the impugned order would amount to interference with the investigation which this Court would not do while sitting in its constitutional jurisdiction under Article 226 of the Constitution of India. The *prima facie* satisfaction of the court



below in issuing the non-bailable warrant against the petitioner has not been shown to be otherwise illegal due to violation of any mandatory procedural law. Police/Investigating Officer has to conduct investigation in his own way and in the manner it is prescribed by law.

15. So far as contention of learned counsel for the petitioner that other writ applications are pending is not of any substance because those writ applications have not come up for final disposal whereas this application is being disposed of on its own merit after hearing the parties.

16. This application has no merit. It is, accordingly, dismissed.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.02.2018
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