

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38726 of 2017

Arising Out of PS.Case No. -637 Year- 2016 Thana -PHULWARI District- PATNA

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1. Shiv Shankar Pathak, S/o- Sri Nirsu Pathak, Resident of Mohalla- Nehru Nagar, Shrdha Lok Apartment, Flat No. 301 D, P.S. Patliputra, District- Patna at present A.G.- 1 (Depot) FCI Saharsa.
 2. Ram Ekbal Sharma, S/o- Baidhnath Sharma, Resident of Mohalla- Vasant Bihar Colony, P.S.- Rajeev Nagar, District- Patna, at Present Manager FCI Depot Phulwarisharif Patna
 3. Deepak Kumar, S/o- Binod Kumar, Resident of Mohalla- East Nand Gola Madho Mills, P.S.- Malsalami District- Patna at Present Assistant FCI Depot Phulwarisharif.
 4. Shailendra Kumar, S/o- Late Bhim Narayan Singh, Resident of Mohalla- Sohsarai Kathal Tola, P.S.- Sohsarai, District- Nalanda at Biharsarif.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Food Corporation of India through its Regional Manager, FCI Distt Office Patna- 11.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mukesh Kumar No-1, Advocate.
For the Opposite Party/s : Mr. Bal Mukund Prasad Sinha, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

4 11-01-2018

Heard learned counsel for the petitioners and the State.

The petitioners apprehend their arrest in **Phulwarisharif**

P.S. Case No. 637 of 2016 instituted for the offence under Sections 406 and 409 of the Indian Penal Code.

It is alleged in the written report that on 2.10.2016 at 6.08 a.m., two trucks entered into the premises of FCI Godown, Phulwarisharif. It is mentioned in the written report that probably on trucks bearing registration Nos. BR-1C-7461 and BR-1B-6841 or BR-1-6841, bags of wheat were loaded illegally and taken out. One truck



was seen in the CC TV footage entering into the premises of FCI godown. It is alleged that employees and labourers intentionally closed the CC TV. The informant was informed by Private Guards of FCI who were deputed to guard FCI godown at Phulwarisharif. It is further alleged that employees and labourers were involved to commit this occurrence.

Learned counsel for the petitioners has submitted that team of FCI, District Office, Patna, has done physical verification of the godown of Phulwarisharif on 26.10.2016 and submitted its report on 1.11.2016, which reveals, that no shortage of either wheat or rice in Phulwarisharif godown was found. The aforesaid report has been enclosed as Annexure-4. It has further been submitted that during departmental proceeding initiated against these petitioners, DGM (Vigilance) has appeared as P.W.1 and has given reply to question No. 7 that there was no shortage of stock in shed No. 2 and shed No. 7 against the book balance and census provided by Manager. Copy of aforesaid deposition is enclosed as Annexure-5.

Learned counsel for the FCI has submitted that in the case diary as well as in the statement of PW-1 in the departmental enquiry, in answer to question No. 9, it has been stated that two trucks were illegally involved in taking approximately 356 bags of food-grains from the Depot, but from such statement, it does not appear that these petitioners were involved.

Considering the facts and circumstances of the case,



prayer for anticipatory bail of the petitioners is allowed. In the event of surrender/arrest of the petitioners, named above, within six weeks from today, in connection with **Phulwarisharif P.S. Case No. 637 of 2016**, they shall be released on anticipatory bail on furnishing bail bond of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of Ms. Shema Eram, **learned Judicial Magistrate, 1st Class, Patna**, subject to the conditions as laid down under Section 438 (2) Cr. P.C. with further conditions (1) bailors should be local having sufficient immovable property within the jurisdiction of the court concerned, (2) petitioners shall cooperate in the trial and shall be present on each and every date fixed by the court and absence on two consecutive dates without proper and reasonable reason will automatically cancel bail bond of the petitioners and (3) if petitioners tamper with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioners.

(Sanjay Priya, J)

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