

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.57951 of 2018

Arising Out of PS. Case No.-211 Year-2017 Thana- MOHIUDDIN NAGAR District-
Samastipur

=====

Rizwan Alam S/o Mansur Alam, resident of Village- Madarpur- Jalalpur,
Police Station- Basantpur, District- Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Ganesh Sharma
For the Opposite Party/s : Mr. Sri Parmeshwar Mehta

=====

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 10-12-2018

Heard learned counsel for the petitioner and learned
A.P.P. for the State. Learned counsel for the informant, who has
suo motu appeared, has also been heard.

2. The petitioner apprehends arrest in Mohiuddinnagar
P.S. Case No. 211 of 2017 instituted under Sections 406/379/34 of
the Indian Penal Code.

3. The allegation against the petitioner, who is the
owner of a truck, bearing Registration No. WB53A-4247, is that
the informant had given 160 quintals of rice for being taken from
the district of Samastipur to West Bengal and on the way, the rice
was sold and the truck was found somewhere in Samastipur,
which was empty. It was further stated that the value of the rice



was Rs. 3,36,800/- and that Rs. 17,000/- advance was also given to the driver and the attendant (*Khalasi*).

4. Learned counsel for the petitioner submitted that he is the owner of the vehicle and was totally unaware of the deal between the informant and the driver and attendant of the truck and, thus, he is not responsible for any alleged loss caused. It was further submitted that the case being lodged at Samastipur without there being any seizure list, the petitioner has also filed CR.W.J.C. No. 1117 of 2018, in which the Court has issued notice to the Investigating Officer of the case. Further, it was submitted that nowhere it is alleged that the informant had any direct dealing with the petitioner.

5. Learned A.P.P. fairly submitted that the petitioner is the owner of the truck and beyond that, there is no allegation.

6. Learned counsel for the informant submitted that the petitioner, being the owner, was the person who had negotiated the deal and in his presence, the informant had got the rice loaded in the truck. On a direct query of the Court as to why such facts were not narrated in the *fardbeyan* and not only this, the facts narrated are totally contrary, inasmuch as, it has been stated that it was the driver and the attendant in whose presence the rice was loaded and there is no mentioning of the owner, learned counsel had no reply.



However, learned counsel further submitted that the informant was told that because the truck had come from West Bengal to deliver some goods and was returning empty, a good deal was given for carrying rice due to which the informant had agreed to send the rice through the truck.

7. Learned counsel for the petitioner submitted that in view of such fact, it is all the more clear that the petitioner, being the owner, was never aware of such transaction as it is well known that it is the driver and the attendant locally, who try to make for themselves some money from transportation where the truck otherwise would have returned empty. It was further submitted that had the deal been negotiated with the owner i.e., the petitioner, the rate would have been comparably at the prevailing rate and not such discounted rate, which further goes to show that the driver and attendant, who at best, can said to have acted dishonestly in transportation of rice of the informant. Learned counsel submitted that the petitioner has no criminal antecedent.

8. 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 Chief Judicial Magistrate,
Samastipur in Mohiuddinnagar P.S. Case No. 211 of 2017, subject
to the conditions laid down in Section 438(2) of the Code of
Criminal Procedure, 1973.

(Ahsanuddin Amanullah, J)

P. Kumar

AFR/NAFR	
U	
T	

