

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.47155 of 2017**

Arising Out of PS. Case No.-91 Year-2017 Thana- BUXAR MUFFSIL District- Buxar

Umesh Kumar Sinha, son of Late Shiveshwar Prasad Sinha, Resident of Village & Post Office- Dona Anchal Hisua, Police Station- Hisua, District- Nawada, Ex- Assistant Godown Manager (Contract) T.P. D.S. Godown Rajpur of Ashok Kumar, Narendra Kumar Godown of Rajpur Akhauripur Chausa Gola, Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Arvind Kumar, District Manager, Bihar State Food Corporation, Buxar and Permanent R/o Village- Bangala Garh, Police Station University, District- Darbhanga.

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Birendra Kumar Singh  
For the Opposite Party/s : Smt. Sucheta Yadav

**CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA**  
**ORAL ORDER**

7      07-02-2018              Heard learned counsel for the petitioner and learned APP for the State.

Petitioner apprehends his arrest in Buxar Muffasil P.S. case no. 91 of 2017 instituted for the offence under Section(s) 406, 409 and 420 of the Indian Penal Code.

In the FIR, it is alleged that the petitioner was engaged as Assistant godown Manager on contractual basis at TDPS godown, Causa, Rajpur, Buxar and he joined the said place on 11.7.2014. He was directed by order dated 10.9.2016 to hand over the charge of aforesaid godown to Sri Hemant Kumar Mandal newly engaged godown Manager. He finally handed over the charge on 16.11.2016 and was relieved to join on Muzaffarpur with a direction to get the



entire records verified. The petitioner directed by order(s) dated 31.12.2016 and 19.01.2017 to get the entire records examined. It is alleged that quantity of food grains were estimated by record keeper who informed on 17.2.2017 that 1022.06.925 quintal wheat and 1032.50.665 quintal of rice total amounting to Rs. 57, 69, 437 has been misappropriated. The petitioner was informed to verify the records through the District Manager, Muzaffarpur by the District Manager Buxar but petitioner after joining had gone on leave. Thus,. F.I.R. has been lodged.

Learned counsel for the petitioner has submitted that he has already handed over the charge on 16.11.2016. Later on, misappropriation of rice and wheat was calculated three months after the petitioner handed over the charge. The calculation was alleged to have been done on 17.02.2017. It has further been submitted that after receiving the notice from the concerned department about the alleged shortage as calculated by the department, the petitioner vide letter dated 03.05.17 requested the authorities to supply him the verification report of available food grains so that he could know about the quantity of damages/ misappropriation as alleged by the Department. But the department instead of supplying information sought for by the petitioner by letter dated 03.05.17 has lodged FIR on 08.05.17 after five days from the date of receiving the letter.

A counter affidavit has been filed on behalf of the BSFC



wherein in para 21 it has been admitted that charge has been handed over by the petitioner on 16.11.16 to Hemant Kumar Mandal. The BSFC has mentioned in the counter affidavit that shortage was found when stock register, sale register and inward register was verified and then the F.I.R. was lodged. It is further submitted that Annexure-5 is a forged document. It bear signature of different persons. Learned counsel for the petitioner has submitted that all these things can appropriately be verified after proper investigation of the case.

This court fails to understand that when person has already handed over the charge and relieved then how after four months of handing over the charge the department is fixing responsibility on such person and exonerating the man who had taken over the charge from the person who had already been relieved.

In the instant case by letter dated 03.05.2017 after receiving the notice from the Department about the shortage found in the godown on the basis of calculation based on audit report, the petitioner made request with the authority to supply him the verification report of the available food grains so that he could know about the quantity of the misappropriation but in stead of supplying the information, the Department lodged the FIR after five days on 08.05.2017.

In the facts and circumstances of the case, prayer of the petitioner for grant of anticipatory bail is allowed. In the event of



surrender/arrest of the petitioner, named above, within six weeks from today in connection with Buxar Muffasil P.S. case no. 91 of 2017, G.R.No. 1223 of 2017, he shall be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned A.C.J.M. V, Buxar, 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) petitioner 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 petitioner and (3) if petitioner tampers 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 petitioner.

**(Sanjay Priya, J)**

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