

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.9348 of 2018

Arising Out of PS.Case No. -176 Year- 2017 Thana -BASOPATTI District- MADHUBANI

1. Rajesh Kumar Agarwal

2. Birendra Kumar Agarwal @ Pintoo Kumar @ Pintu Kumar Agarwal

Both Sl. No. 1 and 2 are sons of Bhagwati Prasad Agarwal, resident of village- Mahavir Chowk, P.S.- Basopatti, District- Madhubani

3. Birendra Kumar son of Nagendra Prasad Sah, resident of village- Mahavir Chowk, P.S.- Basopatti, District- Madhubani.

.... Petitioners

Versus

The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Thakur, Advocate
Mr. Nilesch Kumar, Advocate
Mr. Praveen Kumar, Advocate
Mr. Amit Kumar, Advocate

For the Opposite Party/s : Mr. Ram Anurag Singh, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL ORDER

2 17-02-2018 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

The petitioners seek pre-arrest bail in connection with Basopatti P. S. Case No.176 of 2017 registered under Section 7 of Essential Commodities Act.

It is submitted by the learned counsel for the petitioners that for the alleged occurrence, which took place on 10.08.2017, the FIR was instituted on 15.09.2017 and there is no reasonable explanation for the inordinate delay caused in



institution of the FIR. It is further submitted that the State Government vide its notification dated 10.03.2010 has issued a notification prescribing the storage limit of edible oil by which in corporation area the maximum limit was of Rs.500 quintal whereas in another area its limit was fixed as 250 quintal. Again, the State Government vide notification dated 23.03.2010 extended the operation of the earlier notification till 30.09.2017, but it further provided that the same will not apply in case of retailers (multiple outlets) and large departmental retailers from stock holding limits under the Essential Commodities Act, 1955. This notification further provides that previously issued corresponding notification/order shall be deemed to be amended to this extent. The petitioners deal in the food grains and they are retailers with multiple outlets and they deal in rice, pulse, wheat, sugar, soaps and other departmental articles. In view of the aforesaid two notifications, no licence is required for the retailers, who deal in multiple outlets, as it would be manifest from perusal of the FIR that from the godowns of petitioners Rajesh Kumar Agarwal, Birendra Kumar and Birendra Kumar Agarwal, 21500.61 kg, 18532.834 kg and 18452.31 kg of edible oil were seized respectively, which was less than the storage limit prescribed by the State Government.



Learned Additional Public Prosecutor for the State opposed the prayer for grant of pre-arrest bail to the petitioners.

Considering the nature of allegation made in the FIR and the submissions made above, in the event of arrest or surrender before the court below within six weeks from today, the petitioners named above are directed to be released on bail on furnishing bail bond of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-Vth, Madhubani in Basopatti P. S. Case No.176 of 2017, subject to the conditions as laid down under Section 438 (2) of the Code of Criminal Procedure.

(Ashwani Kumar Singh, J.)

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