

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No.1007 of 2017

- Suryapratap Gupta S/o Late Ramgopal Gupta, Aged About 47 Years R/o Village Patna, Police Station Patna, District Korea Chhattisgarh.

---- Petitioner

Versus

- State Of Chhattisgarh Through Police Station Patna, District Korea Chhattisgarh.

---- Respondent

Shri Manoj Paranjpe, counsel for applicant.
Shri PK Bhaduri, GA for State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

03/01/2018

Heard.

2. The applicant has preferred this application under Section 438 of Cr.P.C., apprehending his arrest in connection with Crime No.224/2017, registered at Police Station–Patna, District Korea for alleged commission of offence under Sections 3 & 7 of the Essential Commodities Act.

3. Case of the prosecution is that the rice meant for Public Distribution System (In short “PDS”) was illegally diverted and transported to a private rice mill. According to prosecution, allegation against the applicant is that the applicant is involved in illegal diversion of the aforesaid PDS rice to a private rice mill.

4. Learned counsel for the applicant submits that the applicant has not committed any offence. The applicant, as a Salesman of the respondent-Government Fair Price Shop, had accepted only 248 bags, out of 378 bags of rice and 130 bags of rice were rejected as not suitable and thereafter, that rice has been diverted to a private rice mill, hence, the applicant cannot be held responsible. Learned counsel for the applicant submits that as per prevalent practice of the government, panchnama of acceptance of 248 bags and rejection of 130 bags was prepared in presence of panchas.

5. On the other hand, learned State counsel submits that according to the material, which has been collected by the Investigating Agency, when the applicant was a Salesman of the Government Fair Price Shop, only a part of PDS rice was accepted and remaining 130 bags of rice was diverted for being taken to private rice mill. He submits that the matter is still under investigation and looking to the role alleged to be played by the applicant, prima facie, it appears to be a case of conspiracy between the applicant and the rice mill owner, where a part of PDS rice was diverted.

6. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration that one of the prosecution witness has admitted that a part of supply was accepted and remaining 130 bags of rice was refused by the applicant treating it to be unsuitable and the applicant is being involved only on the ground of non-acceptance of remaining bags and suggested that particular bags may be taken to a private rice mill, at this stage, I am inclined to protect the applicant.

7. Accordingly, the application on behalf of applicant is allowed. It is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail on furnishing a personal bond for a sum of Rs.20,000/ with one local surety in the like sum to the satisfaction of the arresting officer, on the following conditions that:

(I) The applicant shall make himself available for interrogation by the police as and when required;

(II) The applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer, *and*

(III) The applicant shall cooperate with the investigation as and when he is called.

SD/-
(Manindra Mohan Shrivastava)
Judge