

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.150 of 2019

Arising Out of PS. Case No.-418 Year-2018 Thana- PURNEA SADAR District- Purnia

Umesh Prasad Jaiswal S/o Late Rajendra Prasad Jaiswal Resident of Chandan Nagar, Gulb Bagh Imli tola Hansdah, P.S- Sadar, District- Purnea

... .. Petitioner/s

Versus

The State of Bihar through the Principal Secretary, Food & Supply Deptt., Secretariat, Patna Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sushil Kumar Jha
For the Respondent/s : Mr.Parmeshwar Mehta

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 02-04-2019

Heard learned counsel for the petitioner and learned counsel for the State.

2. This application under Articles 226 and 227 of the Constitution of India has been filed by the petitioner for a direction to the respondent to release 332 quintal rice (Arwa Chawal) seized in connection with Purnea Sadar P.S. Case No. 418 of 2018 registered under Section 7 of the Essential Commodities Act.

3. Perused the report dated 02.02.2019 submitted by the learned Sub-Divisional Judicial Magistrate, Purnea in compliance with the order dated 28.01.2019 passed in this case. By the aforesaid order dated 28.01.2019, a report was called for from the learned Sub-Divisional Judicial Magistrate, Purnea as to why the application dated 24.08.2018 filed by the petitioner for release of



the seized rice has not been disposed of. The learned Sub-Divisional Judicial Magistrate was also directed to indicate the time likely to be taken in disposal of the application dated 24.08.2018.

4. In his report dated 02.02.2019, the learned Sub-Divisional Judicial Magistrate has stated that after filing of the petition dated 24.08.2018 a report from the concerned police station and District Magistrate was called for. The Investigating Officer has submitted his report dated 25.09.2018 stating therein that an intimation to confiscate the seized rice has been forwarded to the District Magistrate, Purnea through letter dated 13.09.2018. However, the report from the District Magistrate, Purnea has not been received. He has also reported that the petitioner has never moved his petition dated 24.08.2018 after 10.09.2018. Hence, the said petition could not be disposed of due to non-appearance of the petitioner. He has expressed his inability to indicate the time likely to be taken in disposal of the application, as desired by this Court.

5. Having perused the report, I am constrained to observe that the learned Sub-Divisional Judicial Magistrate seems to be completely lacking commitment to work. The role of a Magistrate is very important in effective dispensation of justice. It is he, who is supposed to control the proceedings. The indifference



on the part of Magistrate causes delay in judicial process and has been identified as one of the most important reason of disenchantment with the justice delivery system. Looking at the large member of pendency of cases, courts are supposed to be proactive in speedy disposal of any pending application. It cannot afford to sit back and let the parties take adjournments. The learned Sub-Divisional Magistrate is not justified in keeping the petition pending for an indefinite period due to non-furnishing of report called for from the District Magistrate. Such a mindset is not acceptable. At this stage, I say no more.

6. Having said so since the application under Section 451 of the Code of Criminal Procedure (for short 'Cr.P.C') for release of the seized rice is pending before the court of Sub-divisional Magistrate, I am not inclined to entertain the present application in exercise of powers conferred under Articles 226 and 227 of the Constitution of India. Accordingly, the application is disposed of.

7. However, the disposal of this petition shall not in any way prejudice the court below in disposing of the application of the petitioner. Learned Sub-Divisional Judicial Magistrate, Purnea is directed to fix a date within two weeks from the date of receipt/production of a copy of the order for hearing on the



application filed by the petitioner under Section 451 of the Cr.P.C dated 24.08.2018. The date so fixed shall be within ten days from the date of the order. On the date so fixed, the learned Sub-Divisional Judicial Magistrate shall hear the parties and dispose of the application in accordance with law. In case the petitioner fails to appear and press the application on the date so fixed, the learned Magistrate shall either dispose of the application on merit ex-parte or dismiss the same for want of prosecution, but under no circumstance he shall adjourn the case.

(Ashwani Kumar Singh, J)

pradeep/sneha

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	09-04-2019
Transmission Date	09-04-2019

