

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37252 of 2019

Arising Out of PS. Case No.-280 Year-2019 Thana- LAKHISARAI District- Lakhisarai

Ram Shankar Saw @ Ram Shankar Sah, aged about 63 years (male), Son of Late Arjun Saw, Resident of Village-Naya Bazar, Ward No. 25, P.S.- Lakhisarai, District- Lakhisarai.
... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner	:	Mr. N.K. Agrawal, Sr. Advocate Mr. Ranjeet Kumar Singh, Advocate
For the Opposite Party	:	Mr. Parmeshwar Mehta, APP

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

2 20-06-2019 Heard learned senior counsel for the petitioner and learned APP for the State.

2. The petitioner apprehends his arrest for the offences alleged under Section 7 of the Essential Commodities Act registered in connection with Lakhisarai (Kabaya) P.S. Case No. 280 of 2019.

3. It is submitted that the petitioner has been falsely implicated on mere suspicion and in any event no offence has been committed under the provisions of Section 7 of the EC Act. It is submitted that discrepancy in physical stock of the PDS shop of the petitioner has been alleged by way of shortage of 2.34 quintals of wheat and excess of 100.99 quintals of rice as compared to the quantity appearing in the stock register as found at the time of inspection on 29.03.2019, which at best constitutes a matter of accounting. It is also submitted that the petitioner has been carrying on business of PDS shop for more than three decades and no complaint of this nature has been made against him in the past. The petitioner claims clean antecedents.

4. It is further submitted that the petitioner as PDS dealer was not required to maintain his stock register minute to minute rather the entries could be made by the end of the day and as such no default has been committed. In this regard, reliance has been placed



on a decision of this Court in *Ramdeo Burnwal Vs. The State of Bihar* (1972 PLJR 635). Moreover, the petitioner admittedly was not present in the PDS shop at the time of inspection and the case has been instituted without any opportunity to the petitioner to explain the alleged discrepancy. In this connection, reliance has been placed on a decision of this Court in *Radhey Shyam Kalwalia Vs. The State* (1968 BLJR 890).

5. Be that as it may, in the event of the petitioner's arrest or surrender before the court below within six weeks from the date of communication of this order, let the above named petitioner be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Lakhisarai in connection with Lakhisarai (Kabaya) P.S. Case No. 280 of 2019, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C. and with further conditions --

(i) That one of the bailors shall be a close relative of the petitioner.

(ii) That the petitioner shall not indulge in any similar offence till conclusion of the trial.

(iii) That the petitioner shall remain physically present in court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reason, his bail bond shall be liable to be cancelled by the learned Court concerned.

(iv) That the petitioner shall cooperate with the investigation, if not already concluded, and make himself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

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(Vikash Jain, J)

