

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67448 of 2019

Arising Out of PS. Case No.-197 Year-2019 Thana- MAHESI District- East Champaran

RAJESHWAR RAY S/o Late Bachan Ray R/o village- Kothiya Hariram
(Amba), P.S.- Mehsi, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. N.K.Agrawal, Sr.Adv
Mr. Diwakar Singh
For the Opposite Party/s : Mr.Parmeshwar Mehta

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

2 07-11-2019 Heard learned counsel for the petitioner and learned APP
for the State.

2. The petitioner apprehends his arrest for the offences alleged under Sections 414, 420 and 120(B) of the Indian Penal Code and Section 7 of the E.C. Act registered in connection with Mehsi P.S. Case No. 197 of 2019.

3. It is submitted that the petitioner has been falsely implicated in connection with recovery of 812 bags of fertilizer allegedly stored for the purpose of hoarding and black marketing. It is submitted however that recovery has admittedly been made from the residential houses of the petitioner. It is submitted that no offence is made out under Section 7 of the E.C. Act read with the Fertilizer Control Order in absence of any material to indicate that the petitioner was carrying on business or sale of the fertilizer in question. The petitioner has stored the fertilizer for personal use in his family owned land of 30 acres for cultivation of sugar cane. Reliance is placed in the case of *Manipur Administration vs. M. Nila Chandra Singh, AIR(51) 1964 SC 1533* to submit that mere storage does not amount to carrying on business. The petitioner claims clean antecedents.

4. 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 CJM, East Champaran at Motihari, in connection with Mehsi P.S. Case No. 197 of 2019, subject to the conditions as laid down under Section 438 (2) Cr.P.C. and also subject to the following 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 co-operate 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.
- iv. 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.

(Vikash Jain, J)

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