

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19476 of 2020

Arising Out of PS. Case No.-54 Year-2020 Thana- CHANDI District- Bhojpur

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KANHAIYA SINGH Son of Late Sudama Singh Resident of Village - Jogata,
P.S.- Chaandi, District - Bhojpur at Ara.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. N.K. Agrawal, Sr. Advocate
Mr. Manoj Kumar Pandey
For the Opposite Party/s : Mr. Ashok Kumar

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 29-05-2020 The present petition has been taken up for consideration through the mode of Video conferencing in view of the prevailing lock-down on account of COVID 19 Pandemic, requiring social distancing.

Heard Shri N.K. Agrawal, learned senior advocate for the petitioner and Shri Ashok Kumar, learned A.P.P. for the State.

The petitioner apprehends his arrest in connection with Koilwar P.S. Case No. 54 of 2020 for the offence registered under Section 7 of the E.C. Act.

At the outset, the learned senior advocate for the petitioner has submitted that the present anticipatory bail petition has been filed before this Court directly since the learned Court of District & Sessions Judge, Bhojpur at Ara is



not accepting filing of anticipatory bail petitions and the same are not being heard on account of the prevailing lockdown due to KOVID-19 pandemic. It is submitted that there is no bar under the law to approach this Court directly for grant of anticipatory bail.

The learned A.P.P. has not opposed the present petition on the issue of maintainability of the same, hence this Court has proceeded to hear the matter on merits.

The case of the prosecution in brief according to the informant is that on 23.04.2020 in the night at about 10:00 P.M. he received information from the then Block Development Officer, Koilwar and Officer-in-Charge, Chaandi that one pick up van loaded with rice has been apprehended by the local villagers of Jogata Gram Panchayat which was being sent from the place of the petitioner to some other place whereafter the informant along with the police party had first of all inspected the place where the pick up van loaded with rice had been apprehended and thereafter the physical verification of the store/godown of the dealer, namely, Kanhaiya Singh i.e. the petitioner herein was conducted and serious irregularities were found. It is further alleged that the petitioner is engaged in black marketing of the food grains/rice meant for distribution to



the consumers attached to the public distribution shop of the petitioner. In all, 50 sacks of rice were recovered.

The learned senior counsel for the petitioner has submitted that the petitioner is innocent, he is having a clean antecedent and has been falsely implicated in the present case at the instance of the Mukhiya of the village, who has got inimical terms with the petitioner herein. It is further submitted that the pick up van in question does not belong to the petitioner nor the rice bags recovered from the said van belongs to the petitioner. The learned senior counsel has also submitted that the pick up van was standing near the front of the house of one Shashi Bhushan Singh and the rice was being loaded from the said house of Shri Shashi Bhushan Singh. It is also submitted that there is no complaint till date as against the petitioner's public distribution shop by any of the consumer attached to it. Lastly, it is submitted that the petitioner has already been sufficiently penalized inasmuch as the P.D.S license of the petitioner has been cancelled by the S.D.O., Ara vide order dated 26.02.2020.

Per contra, the learned A.P.P. for the State has vehemently opposed the prayer for bail.

Considering the submissions made by the learned senior counsel for the petitioner as also taking into account the



materials available on record apart from the fact that the alleged recovery of 50 bags of rice has neither been made from the conscious possession of the petitioner nor from his godown and the pick up van in question from which recovery has been made does not belong to the petitioner herein as also taking into account the fact that the petitioner is having a clean antecedent and has been suitably punished inasmuch as his P.D.S. license has already been cancelled, this Court deems it fit and proper to grant anticipatory bail to the petitioner herein.

Accordingly, the petitioner, above named, is directed to be released on anticipatory bail in the event of his arrest/surrender before the court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Sub Divisional Judicial Magistrate, Bhojpur at Ara in connection with Koilwar P.S. Case No. 54 of 2020 subject to the conditions as stipulated under Section 438(2) of the Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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