

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 71928 of 2019

Arising Out of PS Case No.-19 Year-2017 Thana- SIRDALA District- Nawada

Kamta Prasad (Male), aged about 66 years, Son of Late Ram Barat Prasad,
Resident of J.K.S/G-28, Behind Flat of Ramlakhan Mahto, Old Jakkanpur,
P.S.-Gardanibagh, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Bihar State Food and Civil Supplies Corporation Limited through the District Manager, Nawada District- Nawada.

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 71215 of 2019

Arising Out of PS Case No.-8 Year-2017 Thana- NARHAT District- Nawada

Kamta Prasad (Male), aged about 66 years, Son of Late Ram Barat Prasad,
Resident of J.K.S/G-28, Behind Flat of Ramlakhan Mahto, Old Jakkanpur,
PS-Gardanibagh, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Bihar State Food and Civil Supplies Corporation Limited through the District Manager, Nawada District-Nawada.

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 71928 of 2019)

For the Petitioner/s	:	Mr. Sanjeev Kumar Mishra, Advocate
For the State	:	Mr. Syed Mojibur Rahman, APP
For the BSFC	:	Mr. Anjani Kumar, Sr. Advocate
		Mr. Shailendra Kumar Singh and
		Mr. Agreya Pratap, Advocates

(In CRIMINAL MISCELLANEOUS No. 71215 of 2019)

For the Petitioner/s	:	Mr. Sanjeev Kumar Mishra, Advocate
For the State	:	Mr. Syed Mojibur Rahman, APP
For the BSFC	:	Mr. Anjani Kumar, Sr. Advocate
		Mr. Shailendra Kumar Singh and
		Mr. Agreya Pratap, Advocates

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH



ORAL JUDGMENT

Date : 29-06-2020

The matter has been heard *via* video conferencing due to lockdown imposed on account of the COVID-19 pandemic.

2. Heard Mr. Sanjeev Kumar Mishra, learned counsel for the petitioner, who is the same in both the cases, and Mr. Anjani Kumar, learned senior counsel along with Mr. Shailendra Kumar Singh and Mr. Agreya Pratap, learned counsel for the Bihar State Food and Civil Supplies Corporation Limited (hereinafter referred to as the 'Corporation') and Mr. Syed Mojibur Rahman, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. Both the matters have been taken up together as the petitioner and the opposite parties are the same and the allegation is also similar.

4. The petitioner is in custody in connection with Sirdala PS Case No. 19 of 2017 dated 01.02.2017 instituted under Sections 409, 420, 467 and 468 of the Indian Penal Code in Cr. Misc. No. 71928 of 2019 and in connection with Narhat PS Case No. 8 of 2017 dated 01.02.2017 instituted under Sections 420, 409, 467, 468, 353 and 120B of the Indian Penal Code in Cr. Misc. No. 71215 of 2019.

5. The allegation against the petitioner in Cr. Misc. No. 71928 of 2019, is of having caused loss to the Corporation of



almost Rs. 42 lakhs by way of shortfall of foodgrains in the godown of which he was the Assistant General Manager and In-charge and in Cr. Misc. No. 71215 of 2019, the allegation is of having caused loss of almost Rs. 1.60 crores.

6. Learned counsel for the petitioner submitted that in view of the overwhelming material, which is on record, and also before the Court below, he would only submit that the Corporation was liable for the shortfall for the reason that for over three years, even it is assumed that the petitioner was misappropriating the foodgrains, there being no inspection or check by the Corporation, the petitioner cannot be individually held liable for any such shortfall. It was further submitted that the petitioner has already taken the stand before the authorities during investigation that at the time of taking charge of the godown itself there was shortfall, which he had pointed out to the person from whom he was taking charge but nothing was done on the same. It was further submitted that the petitioner being a retired employee from a Bank, was not very well versed with the working of the Corporation and depended on his subordinate staff, who duped and misled him, but he was not involved in such activity. Learned counsel submitted that the petitioner being a retired employee was not having any compelling reasons to resort to unfair means for making money as



he was in a relatively comfortable financial position and also being advanced in age, there cannot be any reason for the petitioner to commit such crime at that stage. It was submitted that in Cr. Misc. No. 71928 of 2019, the petitioner surrendered on 12.07.2019 before the Court below whereas in Cr. Misc. No. 71215 of 2019, he is in custody since 25.07.2019.

7. Learned counsel for the Corporation submitted that since he has made detailed arguments on 08.06.2020, which has also been recorded in the order, he would adopt the same without wasting the time of the Court.

8. In view thereof, the arguments of Mr. Anjani Kumar, learned senior counsel for the Corporation, as recorded earlier, are reproduced hereinunder:

“Mr. Anjani Kumar, learned senior counsel for the Corporation, at whose instance the criminal proceedings were instituted, submitted that the petitioner upon superannuation from a Bank, had been engaged by the Corporation and was In-charge of the godowns at Sirdala and Narhat in the district of Nawada. It was submitted that the petitioner was posted at the Narhat godown on 28.04.2014 and was also made In-charge of the godown at Sirdala on 08.06.2016. Learned counsel submitted that on 07.10.2016, the petitioner was transferred but failed to hand over charge to his successor and finally, the District Magistrate, Nawada had to set up a team comprising of Mr. Ashutosh Kumar, AGM, Kawakole godown of the Corporation and the Circle Officer, Sirdala to get the inventory of the godowns in question. It was submitted that in such



exercise, it was detected that there was shortfall of foodgrains amounting to almost Rs. 42 lakhs at Sirdala whereas, the shortfall at Narhat was almost Rs. 1.60 crores. Learned counsel submitted that the witnesses who took part in preparing the inventory as also other witnesses have supported the allegation of defalcation against the petitioner. It was further submitted that the stand of the petitioner before the Investigating Agency was that his signature was taken on misconception and his predecessor Vijay Kant was responsible for the shortfall as he had not handed over full quantity of foodgrains to him. Learned counsel submitted that once there is admission on the part of the petitioner that there was shortfall and he had signed on the quantity while taking over charge, it was his responsibility to account for it. Learned counsel further submitted that such stand was taken for the first time before the Investigating Agency and from 2014 till 2016 i.e. for more than two and a half years, the petitioner did not raise this plea anywhere or before any authority, much less the Corporation. It was submitted that such plea cannot be accepted as the petitioner being the person in charge of the godowns and their stocks, it cannot be accepted that he was unaware of such a huge shortfall for such a long period and only when in the inventory prepared due to him not voluntarily handing over charge, such huge shortfall is detected, clearly proves the complicity of the petitioner committing such defalcation.”

9. Learned APP, adopted the arguments advanced on behalf of the Corporation.

10. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to enlarge the petitioner on bail.

11. Accordingly, the applications stand dismissed.



12. However, let the trials in both the cases be expedited.

(Ahsanuddin Amanullah, J.)

P. Kumar/Anand Kr.

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