

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.16365 of 2021**

Arising Out of PS. Case No.-44 Year-2019 Thana- UPHARA District- Aurangabad

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SHREE NIWAS SHARMA, SON OF LATE AWADH BIHARI SHARMA,
Resident of Village - Aranda, P.O.- Gamhari, P.S.- Uphara, Distt.-
Aurangabad.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar, Advocate

For the Opposite Party/s : Mr.Akhileshwar Dayal, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 30-07-2021 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard Mr. Sanjay Kumar, learned counsel for the petitioner and Mr. Akhileshwar Dayal, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in connection with Uphara P.S. Case No. 44 of 2019 registered for the offence punishable under Section 406, 409, 420 of the Indian Penal Code.

Learned counsel for the petitioner submits that the petitioner happened to be the Chairman of Uphara PACS under Goh Block in the district of Aurangabad. According to the informant who is the Cooperative Extension Officer, Goh, the

petitioner being the Chairman of the PACS and PACS Manager, Sudhendu Kumar Singh procured 3472 quintals of paddy in the Uphara PACS during Kharif season 2018-2019. They were required to make available the Costumed Mill Rice (CMR) weighing 2326.24 quintals up to 30.07.2019 at State Food Corporation, Aurangabad but only 810 quintals CMR were supplied and remaining 1516.24 quintals is still to be supplied. The allegation is that the petitioner and the Manager of the PACS sold 2236 quintals of paddy having market value of Rs. 39,60,250/- equivalent to 1516.24 quintals of CMR.

Learned counsel submits that the petitioner happened to be the Chairman for the period 2014-2019. The allegation of defalcation of sale proceeds are not correct and in fact the society of the petitioner had earlier filed CWJC No. 14641 of 2014 before this Hon'ble Court for recovery of Rs. 42,01,472/- which is the price of paddy supplied by the society to the Bihar State Food and Civil Supplies Corporation. The Hon'ble High Court relegated the matter to the District Consumer Forum where the matter is still pending. It is because of the pendency of the matter the loan-cycle has been badly interrupted.

At this stage, learned counsel for the petitioner submits that the PACS has through the petitioner deposited Rs. 39,61,000/- and, therefore, the entire price as alleged in the F.I.R.

had been deposited with the government.

On the last date, the matter was adjourned with an observation that Mr. Akhileshwar Dayal, learned A.P.P. for the State shall seek instruction from the District Cooperative Officer, Aurangabad and find out whether the petitioner has deposited Rs. 39,60,250/- in the government account.

Today, Mr. Akhileshwar Dayal, learned A.P.P. for the State has informed this Court that he has got instruction to say that the petitioner has deposited the sum of Rs. 39,61,000/-, however, it has also been informed that as on 13.07.2021 the interest amount outstanding against the PACS is Rs. 12,978.03/-.

Considering the facts and circumstances of the case wherein the petitioner has already deposited the entire sum of Rs. 39,60,250/- as alleged in the F.I.R. and rather he has deposited Rs. 39,61,000/- and the co-accused who was the Manager of the PACS has already been granted bail by learned court below, this Court directs release of the petitioner above named on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate 1st Class, Daudnagar, Aurangabad in connection with Uphara P.S. Case No. 44 of 2019, subject to the condition as laid down under Section 437 (3) Cr.P.C. as under :

(a) that such person shall attend in accordance with the

conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J)

vats/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.