

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 39838 of 2020

Arising Out of PS. Case No.-345 Year-2020 Thana- LAKHISARAI District- Lakhisarai

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Rajiv Kumar Pal, aged about 30 years, Male, Son of Late Biru Pal @
Birendra Bhagat, Resident of Village- Naya Bazar, Dalpatti, PS- Lakhisarai,
PO-Lakhisarai, District- Lakhisarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Ms. Preety Kunwar, Advocate

For the State : Mr. Jagdhar Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 17-06-2021

The matter has been heard *via* video conferencing.

2. The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the petitioner on 15.06.2021, which was allowed.

3. Heard Ms. Preety Kunwar, learned counsel for the petitioner and Mr. Jagdhar Prasad, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

4. The petitioner apprehends arrest in connection with Lakhisarai (Kabaiya) PS Case No. 345 of 2020 dated 03.07.2020, instituted under Section 7 of the Essential Commodities Act, 1955.



5. The allegation against the petitioner is that 8 quintals of *Arwa* rice which was seized from one Sanjeev Kumar is said to have been lifted from the house of the petitioner and it is alleged that it was meant for black marketing.

6. Learned counsel for the petitioner submitted that besides there being no legal impediment with dealing in foodgrains as per the Removal of (Licensing Requirements, Stock Limits and Movement Restrictions) on Specified Foodstuffs Order, 2002, contained in G.S.R. 104(E) dated 15th February, 2002 and published in the Gazette of India, Extraordinary, Part II dated 15th February, 2002; according to which, dealing in rice/wheat would not amount to offence under the Essential Commodities Act, 1955. It was contended that the fact that the rice was seized from the possession of another person, that too, without any specific mark as to whether it was picked up from any shop or was part of any material meant for distribution through the Public Distribution System, the entire prosecution, as far as it relates to the petitioner, is erroneous and an abuse of the process of the Court. It was submitted that the petitioner is a small foodgrain dealer and has no criminal antecedent.

7. Learned APP submitted that the rice seized was meant for black marketing. However, he could not answer the



submissions of learned counsel for the petitioner that there is no Control Order prohibiting any person to deal in foodgrains, especially rice which has been caught and is subject matter of the FIR.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned SDJM, Lakhisarai in Lakhisarai (Kabaiya) PS Case No. 345 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further, (i) that one of the bailors shall be a close relative of the petitioner and (ii) that the petitioner shall co-operate with the police/prosecution and the Court. Failure to co-operate shall lead to cancellation of his bail bonds.

9. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioner, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner.



10. The application stands disposed off in the
aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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