

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7301 of 2021

Arising Out of PS. Case No.-7 Year-2016 Thana- SUPAUL District- Supaul

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1. MD. SAIMUL HAQUE S/O Md. Hussain Resident of village- Chandail Maricha, P.S. and District - Supaul.
 2. Md. Mahboob Alam S/O Abdul Samad Resident of village- Chandail Maricha, P.S. and District - Supaul.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rakesh Kumar Jha, Adv.

For the Opposite Party/s : Mr.A.G.

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 23-11-2021 Heard the learned counsel for the petitioners and the learned A.P.P. for the State.

This is an application for grant of anticipatory bail in connection with Supaul P.S. Case No. 7 of 2016 registered for the offence punishable under Section 7 of the Essential Commodities Act, 1955.

The allegation is regarding one Nitish Kumar having been arrested by the police while carrying 100 liters kerosene oil. Upon interrogation, he is stated to have disclosed that he had purchased the said kerosene oil from the petitioner no. 1, who happens to be a PDS dealer. As far as the



petitioner no. 2 is concerned, he is stated to be engaged in the business of providing electricity to the villagers by means of a generator and for the purposes of running the generator, he is stated to be taking kerosene oil from the villagers, which is being partly used by him for running the generator and the rest of it is being sold to the co-accused person, namely, Nitish Kumar.

The learned counsel for the petitioners has submitted that the petitioners are innocent, they have been falsely implicated in the present case and they are having clean antecedent. The learned counsel for the petitioners has further submitted that as far as the investigation is concerned, charge-sheet was submitted only against the petitioner no. 2, but subsequently, cognizance has been taken by the learned court below against both the petitioners. It is further submitted that there is no material on record to show the complicity of the petitioners in the alleged crime and they have been merely roped in the present case upon disclosure made by the co-accused



person, namely, Nitish Kumar. It is further submitted that no loss has been caused to the respondent-State inasmuch as the kerosene oil stated to be ferried by the co-accused person, namely, Nitish Kumar, was seized by the police.

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

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the petitioners and taking into account the fact that the petitioners are firstly having a clean antecedent and secondly, no recovery of the essential commodity has been made from them or from their house, apart from the fact that the petitioner no. 1 is holding a valid PDS license and there is no complaint against him from his consumers / beneficiaries, I deem it fit and appropriate to grant the privilege of anticipatory bail to the petitioners.

Accordingly, the petitioners are directed to be enlarged on anticipatory bail, in the event of



their arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) each with two sureties of the like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Supaul in connection with Supaul P.S. Case No. 7 of 2016, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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