

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81510 of 2019

Arising Out of PS. Case No.-11 Year-2017 Thana- NOKHA District- Rohtas

Akhilesh Kumar Son of Suresh Singh Resident of Mohalla - Kuraich Mahavir
Asthan, Ward No. -6, P.S.- Sasaram, District- Rohtas

... .. Petitioner

Versus

1. The State of Bihar
2. The Managing Director Bihar State Food and Civil Supplies Corporation
Ltd. Son Bhawan, R.Block Patna Bihar

... .. Opposite Parties

Appearance :

For the Petitioner/s	:	Mr. Prithivi Raj Singh, Advocate
For the Informant	:	Dr. Kislay, Advocate
For the Opposite Party/s	:	Mr. Fahimuddin, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 06-10-2021 Heard learned counsel for the petitioner, learned
counsel for the informant and Mr. Fahimuddin, learned APP for
the State.

This is the second attempt of the petitioner to obtain
pre-arrest bail in connection with Nokha P.S. Case No. 11 of
2017 registered for the offences punishable under Sections 409
and 420 of the Indian Penal Code.

Learned counsel for the petitioner submits that the
First Information Report has been lodged by one Sameer Kumar
who was the Assistant Godown Manager of the S.F.C. Kargahar
Extension Godown, Bazar Samiti, Takiya, Sasaram. He has
alleged that after he took over the charge of the godown on



05.03.2016, the petitioner and the co-accused Deepak Kumar Tiwary who were posted there as Executive Assistant had indulged in forging his signature and thereby lifting away 785 quintals of Customed Milled Rice (C.M.R.), for this the get passes were forged showing the signature of the informant.

Learned counsel for the petitioner submits that it is a case of false implication of the petitioner. The petitioner was working on contract basis in the said godown and in the physical verification done by the Additional Collector, Sasaram on 24.05.2016, the total quantity of C.M.R. rise was found 49,675 bags (24837 quintals). It is his further submission that for the same offence there are four F.I.Rs and in the two cases lodged by District Manager, State Food Corporation, Sasaram three persons are made accused including the informant of this case. The petitioner has been granted privilege of anticipatory bail in both the cases from the learned court below.

Learned counsel for the petitioner has drawn the attention of this Court towards the information furnished under the Right to Information Act (in short R.T.I.) by the District Office of the Bihar State Food and Civil Supplies Corporation Limited (Annexure – 6 to the supplementary affidavit) to submit that in answer to a query made by the applicant under the R.T.I.



it has been informed that this petitioner was not working in the office between 01.10.2016 to 31.10.2016. It is submitted that the petitioner has got bail from the learned court below itself in the two cases lodged by the State Food Corporation on noticing that the petitioner was not posted during this period.

On the other hand Dr. Kislay, learned counsel representing Bihar State Food and Civil Supplies Corporation Limited submits that for the similar offence there may be more than one F.I.R. if the different F.I.Rs are indicating towards different manner of occurrence. Reliance in this regard has been placed on the judgment of Hon'ble Supreme Court in the case of **P. Sreekumar vs. State of Kerala & Ors. reported in (2018) 4 SCC 579.**

Dr. Kislay has further drawn the attention of this Court towards the statements made in paragraph '12' of the petition. It is submitted that the petitioner himself admits that he was there in the office working from 01.10.2013 to 31.10.2016. So far as Annexure - '6' to the supplementary affidavit is concerned, learned counsel for the petitioner submits that this camouflage has been created taking the benefit of the technicality which may be noticed from a letter bearing no. 12519 dated 07.10.2016 issued by the then Managing Director



of the Bihar State Food and Civil Supplies Corporation Ltd. addressed to all the District Officers of the Corporation in the State of Bihar wherein it was noticed that even after the expiry of the contract period of the daily wagers in some of the districts they were being allowed to work without extension and the complaints were being received that they were indulging in misappropriation of the food grains.

Let a copy of the letter no. 12519 dated 07.10.2016 be placed on the record.

Learned counsel has explained to this Court that Annexure - '6' to the supplementary affidavit has been prepared taking advantage of the official position in which the petitioner was not being shown working in the department during 01.10.2016 to 31.10.2016 whereas the fact is that in his own statement the petitioner admits that he was there and working.

Learned counsel further submits that apparently the learned court below while granting bail to the petitioner has not gone into the materials which are very much available and the petitioner has misled the learned court below to believe that he was not posted there during the period the alleged occurrence had taken place. Learned counsel submits that he reserves his right to file an appropriate application seeking cancellation of



bail of the petitioner in those cases.

It is further pointed out to this Court that earlier this petitioner had moved for grant of anticipatory bail which was rejected vide order dated 13.02.2018 in Cr. Misc. No. 2725 of 2018. In the said case this Court has noticed the allegations against this petitioner and then rejected the same but after one year ten months from the date of the said rejection the petitioner has filed another application before this Court on 09.12.2019 and now two more years have gone awaiting hearing of this case, therefore in a case of the year 2017, till date the petitioner is evading his arrest.

Having heard learned counsel for the petitioner, learned counsel for the Bihar State Food and Civil Supplies Corporation and learned A.P.P. for the State, this Court is of the considered opinion that there are prima facie materials indicated in the F.I.R. in which the allegations have been specifically made showing that this petitioner had interpolated the records and made forged signature of the informant, this is one aspect of the matter which requires investigation from the given angle, this Court has further noticed that the informant had joined the said place on 05.03.2016 and admittedly thereafter this petitioner was working there and as per allegation, he was



keeping the key of the godown also, prima facie this Court has noticed that on the face of these materials the petitioner does not deserve privilege of bail. His conduct in moving this Court in a fresh anticipatory bail application after one year ten months of earlier rejection further speaks of his conduct.

The application is thus dismissed.

If the petitioner does not surrender forthwith, the court below shall proceed in accordance with law.

(Rajeev Ranjan Prasad, J)

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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'.

