

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58641 of 2019

Arising Out of PS. Case No.-101 Year-2015 Thana- GOVINDGANJ District- East
Champaran

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Deonath Choudhary, Gender-Male, Aged about 53 years, S/o Late Hardeo Choudhary R/o village- Karia Aanand, P.O. and P.S.- Karza, District- Muzaffarpur

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The District Manager, Bihar State Food Corporation, Dist. Motihari.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Shri Prakash Srivastava, Adv. Mr. Ajay Kr. Ojha, Adv.
For the Opposite Parties :		Mr. Parmeshwar Mehta, APP Ms. Anukriti Jaipuriyar, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

11 09-03-2022 Heard Mr. Shri Prakash Srivastava learned counsel for the petitioner and Ms. Anukriti Jaipuriyar for the opposite party no.2 namely the District Manager, Bihar State Food Corporation, Motihari.

The petitioner seeks bail in anticipation of his arrest in connection with Gobindganj/Malahi P.S. Case No. 101 of 2015 dated 24.04.2015 instituted for the offences under Sections 406, 409 & 420 of the Indian Penal Code.

According to the F.I.R., the Bihar State Food Corporation is said to have been put to a loss of approximately 44,62,459/- on account of the inaction of the petitioner in not bringing to the fore the wrong information provided by the rice



millar, who had furnished incorrect information with respect to the vehicle which was used for lifting the food grain for the purposes of milling the same and providing CMR to the B.S.F.C.

Mr. Srivastava has pointed out that for any false statement by a miller regarding upliftment of rice, he would only be at the receiving end as he would be required to deposit corresponding quantity of the CMR with the State Food Corporation. Not doing so would lead to criminal prosecution against him.

The only accusation against the petitioner is that he, at the relevant time, was posted as Purchase In-charge Officer in Paharpur godown who could have been in conspiracy with the rice miller.

It has been submitted that there is no evidence whatsoever which could be appreciated under Section 10 of the Evidence Act with respect to the element of conspiracy.

Assuming but not admitting that the petitioner was posted as the Purchase Officer and he did not point out the wrong information provided by the miller with respect to the mode of transport of the grains in question, that would definitely not make out any case against the petitioner for the offences



under Section 406, 409 and 420 of the I.P.C.

At best, the petitioner could be proceeded against departmentally or could be prosecuted for negligence.

Ms. Anukriti Jaipuriyar has submitted that the offence is completed no sooner the allegation has been made that a false statement by a miller was not brought to the notice of the State Food Corporation and that there could have been some ulterior motive behind permitting the miller to provide such wrong information.

There are ample evidence on record, as argued by the learned counsel for the opposite party no.2, to point accusing finger towards the petitioner.

Be that as it may, considering the fact that the petitioner has participated in the investigation all this while and has not withheld any information necessary for proper investigation of this case, he is directed to be enlarged on bail, in the event of his 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 his furnishing bail bonds in the sum of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate, Chapra in connection with



Gobindganj/Malahi P.S. Case No. 101 of 2015, subject to the conditions as laid down under Section 438(2) Cr.P.C.

While saying so, this Court also cautions that the petitioner shall keep on providing assistance to the investigating agency and shall come forth with all the information that he has, as and when demanded by the investigating officer. Not doing so would give the liberty to the investigating officer of this case or the opposite party no.2 to move suitable application for cancellation of his bail. In that case, the court below shall proceed in that regard promptly.

The petition stands allowed with the aforementioned direction.

(Ashutosh Kumar, J)

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