

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34538 of 2023

Arising Out of PS. Case No.-335 Year-2022 Thana- BACHHWARA District- Begusarai

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ALOK KUMAR Son of Late Dr. Yogendra Pd. R/o New Alkapuri,
Gardanibagh, P.S. - Gardanibagh, Distt. - Patna.

... .. Petitioner.

Versus

1. The State of Bihar
2. District Manager, Bihar state food and Civil Supplies Corporation
Ltd.Begusarai Bihar

... .. Opposite Parties.

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WITH
CRIMINAL MISCELLANEOUS No. 34942 of 2023

Arising Out of PS. Case No.-375 Year-2022 Thana- TEGHRHA District- Begusarai

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ALOK KUMAR Son of Late Dr. Yogendra Pd. R/o New Alkapuri,
Gardanibagh, P.S.- Gardanibagh, District - Patna.

... .. Petitioner.

Versus

1. The State of Bihar
2. District Manager, Bihar State Food and Civil Supplies Corporation Ltd.,
Begusarai Bihar

... .. Opposite Parties.

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 34538 of 2023)

For the Petitioner	:	Mrs. Nivedita Nirvikar, Sr. Advocate
		Mr. Arya Achint, Advocate
		Mr. Somesh Kumar, Advocate

For the B.S.F.C.	:	Mr. Shailendra Kumar Singh, Advocate
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For the State	:	Mr. Parmeshwar Mehta, APP
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(In CRIMINAL MISCELLANEOUS No. 34942 of 2023)

For the Petitioner	:	Mrs. Nivedita Nirvikar, Sr. Advocate
		Mr. Arya Achint, Advocate
		Mr. Somesh Kumar, Advocate

For the B.S.F.C.	:	Mr. Shailendra Kumar Singh, Advocate
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For the State	:	Mr. Parmeshwar Mehta, APP
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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
C.A.V. ORDER

8 02-11-2023 Although both the bail applications do not arise from the same



Police Station case number and the impugned orders are also different but, as the petitioner of both these applications is same and allegations are almost of same in nature, with consent of parties, both these applications have been heard together for final disposal at this stage itself.

2. Heard Mrs. Nivedita Nirvikar, learned senior counsel assisted by Mr. Somesh Kumar, learned Advocate for the petitioner, Mr. Shailendra Kumar Singh, learned counsel for the Bihar State Food and Civil Supplies Corporation Limited (hereinafter in short refereed to as 'BSFC') and Mr. Parmeshwar Mehta, learned APP for the State.

3. Petitioner apprehend his arrest in connection with Bachhwara P.S. Case No.335 of 2022 for the offences punishable under Sections 409 and 420 of the Indian Penal Code and also in connection with Teghra P.S. Case No.375 of 2022 for the offences punishable under Section 409 of the Indian Penal Code.

4. In first case i.e. in Cr. Misc. No.34538 of 2023, the allegation against the petitioner is that he, being an Assistant Godown Manager at TDPS Godwon, Bachhwara, Begusarai, is said to have misappropriated 132014.433 quintals of food-grain worth Rs.48,44,982.50, whereas in the second case i.e. Cr.



Misc. No.34942 of 2023, the allegation is of misappropriation food-grains worth Rs.77,88,149.48.

5. Mrs. Nivedita Nirvikar, learned senior counsel for the petitioner submits that petitioner is innocent and has committed no offence and has been falsely implicated in present case with ulterior motives. There is general and omnibus allegation against the petitioner and has been falsely implicated merely on the suspicion. The informant in his written report neither provide any proof of evidence regarding involvement of the petitioner in the said misappropriation nor explained how much misappropriation has been done by the petitioner.

(i) She further submits that petitioner has joined as Assistant Godown Manager on 03.08.2016 in TDPS Godown Bachhwara, Begusarai and had an unblemished career till December 2021 and after that the problems started with the Doorstep Delivery (DSD) Transporter, namely, Vijay Prakash, Singh, whose responsibility is to collect the food grains from State Food Corporation Godown and supply the same to the Public Distribution System (PDS) dealers, has started to do illegal activities by bringing less number of vehicles for distribution of food grains when the demand of the vehicle is always high as to transport the orders to the PDS Dealers and



started taking the misappropriated grains to their personal benefits and whenever it was questioned by the petitioner, he was threatened with unparliamentary languages. The petitioner has time and again informed and gave complaints to the senior, the informant Anil Kumar, District Manager, State Food Corporation, Begusarai about the irregularities committed by the DSD transporters, use of the unparliamentary words and being life threatened by the DSD Transporter in different occasions, but no action had been taken by the senior official. Apart from the petitioner, the Block Supply Officer, Bachhwara; the Bachhwara Prakhanda Fair Price Dealers Association, Bachhwara; Godown Sahayak and the Labour working in the Godown had also given complaint against the DSD Transporter pointing out the same issues that they are not working properly, involved in the misappropriation of the food grains, less number of trucks provided to the Godown for in and out of the stocks, wrongfully demand of the money from the labour and regarding the non-availability of works to the labour but no actions has been taken with respect to the complaint being made against the DSD Transporter.

(ii) She further submits that there is no complaint has been made against the 4G Data Entry Operator (DEO) for the



misappropriation in the Godown, who is the most important persons and has the full knowledge of the stocks, being in and out from the Godown as their work is to keep update about the stocks every second and whether there is any misappropriation happening or not they are the right persons to observe and report to the concerned person or authority regarding the same if something wrong has been done and by whom.

(iii) She further submits that earlier on 23.05.2022, the physical verification of the Bachhwara TDPS godown was conducted by the Block Supply Officer and has not found any single irregularity and misappropriation of the grains in the said godown and in his report, it was found correct and satisfactory. Petitioner immediately stopped signing on stock and sales registers as there was no matching after the calculation of quantity of the food grains from the online Real Time System which are being updated by the 4G DEO. He also stopped signing on the RT Challan which are being brought by the DSD Transporter on every single vehicles which are to be used to be used for the supplying of the food grains to the PDS Dealers to stop the misappropriation which are being done by the connivance of both DSD Transporter and 4G DEO, but nothing has happened and petitioner started getting life threats by the



DSD Transporters and other peoples related to the DSD transporters. On 23.08.2022, the petitioner was assaulted by some unknown person, then he left the place due to danger of his life and family members had also informed the District Manager, BSFC, Begusarai on 24.08.2022 and handed over the charge and key of godown to the 4G DEO, Bachhwara and also informed the senior authority.

(iv) She further submits that the petitioner has not been paid his salaries for four months while he was working in the TDPS Godown from May 2022 to August 2022 without any information and reason stating therein and he also has not been suspended till today and not any departmental enquiry has been instituted and directly without any evidence merely on the suspicion he has been falsely implicated in this present case.

(v) She lastly submits that because of the misappropriation being done by the DSD Transporter and 4G DEO, the petitioner gave several complaints to the senior officials but no action has been taken by the senior officials. The petitioner has is not involved in the said crime and main accused are i.e. DSD transporters and 4G DEO who are not even named in the F.I.R. and the petitioner without any valid evidence harassed by the informant in his written report. Learned senior counsel for the



petitioner further submits that two similarly situated co-accused, namely, Jawahar Lal and Bipin Kumar Singh have already been granted anticipatory bail by co-ordinate Bench of this Court vide order dated 01.09.2015 passed in Cr. Misc. No.16557 of 2013 and order dated 16.08.2023 passed in Cr. Misc. No.23279 of 2023 respectively.

6. Learned APP for the State as well as learned counsel for the BSFC opposing the bail applications submitted that the petitioner has played an active role in the alleged crime and there is sufficient material against him. Learned counsel for BSFC further submits that petitioner has defalcated public food grain worth Rs. 48,44,982.50/- and Rs.77,88,149.48 totalling to Rs. 1,26,33,131.98. He further relies upon the judgment of the Hon'ble Apex Court passed in SLP (Cr.) No. 1779/2016 and submits that the petitioner is liable to pay the entire defalcated amount. He lastly submits that the petitioner is named in the F.I.R. and has defalcated public food grain against two godowns Teghara and Bachhwara of total amount of Rs. 1,26,33,131.98 and as per the audit report also the case has been found true against the petitioner and thus he does not deserve anticipatory bail. With regard to the submission made on behalf of the petitioner that similarly situated co-accused have been granted



anticipatory bail by co-ordinate Bench of this Court, learned counsel for the BSFC submits that in both the cases the petitioners were retired employees and there was delay of more than one year in lodging the F.I.R. but in the present case the petitioner is still working. It is lastly submitted by learned counsel for the BSFC that on 23.05.2022, the physical verification of the Bachhwara TDSPS Godown was conducted by the Block Supply Officer and he has not found any single irregularity and misappropriation of the food-grains, the said verification was for the financial year 2021-22 i.e. 31.03.2022 to 01.04.2022, but both the F.I.Rs. have been lodged on the basis of audit report for the period 23.05.2022 to 25.08.2022.

7. Having heard learned counsel for the parties at length and perusing the materials on record, I cannot restrict myself to pen down that corruption has several manifestations which affects people's lives in different ways. Widely, it undermines the rule of law, damages trust, hurts development and prevents governments from delivering of their duties.

8. Learned senior counsel for the petitioner submitted that two similarly situated co-accused have been granted anticipatory bail by co-ordinate Bench of this Court. In this regard, I may only say that no inflexible guidelines or straitjacket formula can



be provided for grant or refusal of the anticipatory bail because all circumstances and situations of future cannot be visualised for the grant or refusal of anticipatory bail. In consonance with legislative intention, the grant or refusal of anticipatory bail should necessarily depend on facts and circumstances of each case.

9. Having considered the submissions made by the learned counsel for the parties, considering the gravity of the offence, circumstances of the case, particularly, the allegation of misappropriation of public money worth more than one crore of rupees, I am not inclined to grant anticipatory bail to the petitioner. Accordingly, the prayer for anticipatory bail of the petitioner in both the applications is hereby rejected.

10. However, if the petitioner surrenders before the learned court below within four weeks from today and seek regular bail, the learned Court below would pass order in accordance with law without being prejudiced by this order.

(Anjani Kumar Sharan, J.)

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