

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35751 of 2022

Arising Out of PS. Case No.-29 Year-2022 Thana- ANDHRAMATH District- Madhubani

GOVIND MUKHIYA SON OF RAM PRASAD MUKHIYA R/O VILL-
AMCHIRI, P.S.- ANDHRA MATH, DIST.- MADHUBANI

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Baleshwar Kamat

For the Opposite Party/s : Mr.Parmeshwar Mehta, APP

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

5 07-04-2023 Heard Mr. Baleshwar Kamat, learned counsel
appearing on behalf of the petitioner and Mr. Parmeshwar
Mehta, learned APP for the State.

2. The petitioner seeks pre-arrest bail in connection
with Andhra Math P.S. Case No. 29 of 2022 (G.R. No. 360 of
2022) registered for the offence punishable under Sections 379,
420 of the Indian Penal Code and Section 7 of the Essential
Commodities Act.

3. Prosecution story, in brief, is that in course of
investigation conducted on 31.03.2022, certain irregularities
were found to have been committed by the petitioner who was
licensee of the government fair price shop under the scheme of
Public Distribution System and for those irregularities petitioner
was held to have committed offence under Section 7 of the



Essential Commodities Act.

4. Learned counsel appearing on behalf of the petitioner submitted that as per Rule 20 of the Bihar Targeted Public Distribution System (Control) Order, 2016 (hereinafter referred to as “Control Order, 2016”), the prescribed authorities mentioned therein are required to conduct inspection in terms of Sub-Clause-III which provides for technology based inspection and supervision and in case any irregularity is found, then Inspecting authority shall make a report available to the Licensing Authority without delay. The Licensing Authority is required to take action within a period of one month.

5. In the present case, the inspection report on which basis the F.I.R. has been lodged is merely based on physical assessment made by the inspecting team and same cannot be relied in terms of Rule 20 of the Control Order, 2016. Learned counsel further submitted that the beneficiaries have never made any complaint against the petitioner and they have also given affidavit that the petitioner was running the shop in accordance with law.

6. Learned APP for the State has vehemently opposed the prayer for grant of pre-arrest bail to the petitioner and referring to the F.I.R., he has stated that the petitioner has



misappropriated altogether 140.45 quintal of rice and 98.80 quintals of wheat and as per the market value he has put a loss to the government by selling the foodgrains in black market.

7. Having heard the rival submissions of the parties and materials on record, inspection report dated 01.03.2022 appears to be conducted not in accordance with Rule 20 of the Control Order, 2016. The petitioner against whom there is no criminal antecedent has, prima facie, made out a case to be granted pre-arrest bail.

8. Court below is directed to release the petitioner, above named, on pre-arrest bail, in the event of his arrest or surrender before the Court below within a period of four weeks from today, on furnishing bail bond of Rs. 25,000/- (Twenty Five thousand) with two sureties of the like amount each to the satisfaction of learned SDJM, Jhanjharpur, Distt.-Madhubani, in connection with Andhra Math P.S. Case No. 29 of 2022, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

(Purnendu Singh, J)

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