

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53103 of 2023

Arising Out of PS. Case No.-137 Year-2023 Thana- CHAUTHAM District- Khagaria

Jitendra Sah, Male, aged about 73 years, Son of Late Ratilal Sah @ Late Rattilal Sah, Resident of Village- Gadhiya, P.S. -Chautham, District- Khagaria
... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Praveen Kumar Agrawal, Advocate

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

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 13-12-2023 Heard Mr. Praveen Kumar Agrawal, 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 Chautham P.S. Case No. 137 of 2023 corresponding to G.R. No. 1391 of 2023 registered for the offence punishable under Sections 379 and 420 of the Indian Penal Code and Section 7 of the Essential Commodities Act.

3. As per the allegation made in the FIR, a raid was conducted and on physical inspection of PDS shop of the petitioner, shortage of 98.5 quintal of rice and 36.5 quintal of wheat was found which shows that the petitioner has not supplied the subsidized grain to the beneficiaries and has indulged in black marketing 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 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. He further submitted that the inspection of shop was made on 03.03.2023 for which show cause was asked to the petitioner vide letter dated 13.03.2023 and from the show cause notice dated 13.03.2023 it would appear that there is no allegation of shortage of food grains. Again in the same matter on 19.04.2023 another show cause was asked and even in the show cause dated 19.04.2023 there is no allegation of shortage and black marketing.

5. Learned APP for the State vehemently opposed the prayer for grant of pre-arrest bail to the petitioner and referring to the FIR he has stated that the petitioner has misappropriated 98.5 quintal of rice and 36.5 quintal of wheat, as such, the petitioner does not deserve to be released on bail.

6. Having heard the rival submission of the parties and materials on record, inspection dated 03.05.2023 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 released on pre-arrest bail.

7. The petitioner, above named, is directed to be released 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. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned S.D.J.M., Khagaria, in connection with Chautham P.S. Case No. 137 of 2023 corresponding to G.R. No. 1391 of 2023, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

8. **The Court below is directed to verify the criminal antecedent of the petitioner as stated in paragraph no. 3 of the bail application. If any other case is pending against the petitioner as what has been stated in paragraph no. 3, this order will lose its force automatically.**

(Purnendu Singh, J)

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