

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71447 of 2022

Arising Out of PS. Case No.-477 Year-2021 Thana- SAUR BAZAR District- Saharsa

1. Yaswant Kumar S/O Mahendra Prasad Yadav R/O village- Knap, P.S- Sour Bazar, District- Saharsa
2. Jagdish Thakur S/O Late Kokay Thakur R/O village- Knap Purvi Tola Thengha Ward No 01, P.S- Sour Bazar, District- Saharsa

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shiva Shankar Sharma, Advocate

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

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 05-05-2023 Heard learned counsel appearing on behalf of the petitioners and learned Additional Public Prosecutor appearing on behalf of the State.

The accused/petitioners are named in the F.I.R. and apprehending their arrest in connection with Sour Bazar P.S. Case No. 477 of 2021 registered for the offences punishable under Sections 420, 406, 409, 34 of the Indian Penal Code (in short 'I.P.C.').

The allegation against these petitioners is to defalcate an amount of Rs. 29,71,988/- (Rupees Twenty-Nine Lac Seventy-one Thousand Nine Hundred Eighty-eight) an equivalent amount of CMR 1066 quintal, which was not



supplied by petitioner no. 1, where petitioner no. 2 is Assistant Manager of “Knap” PACS.

Learned counsel appearing on behalf of the petitioners submitted that the fact of this case is not suggesting that petitioners committed any breach of trust. It is also submitted that ingredients of cheating is also not appears available in present case. It is pointed out that due to circumstantial hardship certain quantity of paddy was not delivered but act was neither intentional nor deliberate, however, petitioner no. 1, namely, Yaswant Kumar is ready to pay entire amount of Rs. 29,71,988/- (Rupees Twenty-Nine Lac Seventy-one Thousand Nine Hundred Eighty-eight) in terms of supplementary affidavit dated 04.05.2023 in total of eighteen (18) installment, where the first installment will be paid as Rs. 5,00,000/- (Rupees Five Lac) and rest amount in eighteen (18) equal installment of Rs. 1,40,000/- (Rupees One Lac Forty Thousand). Any balanced amount shall be adjusted in last 18th installment. It is also pointed out that petitioner no. 2 is the Assistant Manager and he is not liable to pay any defalcating money as alleged. While concluding the argument it is submitted that petitioners are men of clean antecedent.

Learned APP for the State, in view of the



supplementary affidavit dated 04.05.2023 submitted that petitioner may be granted provisional bail till realization of entire amount.

Considering the aforesaid facts and circumstances as mentioned above, as petitioner is ready to pay the entire amount in eighteen (18) equal installment in terms of supplementary affidavit dated 04.05.2023, both petitioners above named, in the event of their arrest or surrender before the court below within a period of four weeks, are directed to be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Saharsa/concerned Court, where the case is pending in connection with Sour Bazar P.S. Case No. 477 of 2021, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

Petitioner no. 1 is directed to deposit Rs. 5,00,000/- (Rupees Five Lac) at the time of furnishing bail bond.

It is further directed to the learned Trial Court/concerned Court that in event of any non-payment or any deviations from the supplementary affidavit dated 04.05.2023, bail bond of petitioner no. 1, namely, Yaswant Kumar shall be liable to be canceled by learned Trial Court itself.



This order be treated as absolute against petitioner no.
1 only after realization of entire amount of Rs. 29,71,988/-
(Rupees Twenty-Nine Lac Seventy-one Thousand Nine Hundred
Eighty-eight) in terms of affidavit dated 04.05.2023.

(Chandra Shekhar Jha, J)

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