

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59340 of 2022

Arising Out of PS. Case No.-311 Year-2022 Thana- PURNEA SADAR District- Purnia

Vikash Kumar Das S/O Samar Das Resident Of- Hasda Road, Gulabbag, P.S.-
Sadar, District- Purnia. Petitioner/s

Versus

1.The State of Bihar
2. Lalit Kumar Sharma, S/O- Shiv Kumar Sharma, R/O- Gulabbagh, P.S-
Sadar, Dist- Purnia

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ashok Kr. Chaudhary, Sr. Adv Mr.Gaurav Prakash Mr. Akshansh Ankit
For the Opposite Party/s :		Mr.Kumar Veerendra Narayan

CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL ORDER

4 08-02-2023 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner has filed the instant application for grant of regular bail in connection with Sadar P.S. Case No. 311 of 2022 registered under Sections 406, 419, 420, 408, 409, 467, 468, 471 and 120(B) of the Indian Penal Code.

Prosecution case in short, is that the informant is authorized stockist of Chambal Fertilizer Chemicals Limited, Gujrat State Store and he is the Proprietor and takes assistance of his brother Saket Kumar Sharma, who is sole proprietor of Jai Salasar Enterprises having godown at Purnea. Both of them appoints partners on contract of lifting the goods from Railway Yard and its transportation to their godowns and get it supplied



to distributors on daily wages. It is also stated that informant had appointed the petitioner in the year 2013, and the petitioner has earned good faith from the informant for his hard work. Informant introduced the petitioner as his responsible representative in Railway Commercial Department. In the absence of the informant, the petitioner was managing his business and when the informant came, he found irregularity in the stock. Thereafter, the informant appointed an accountant and in the course of inquiry, the informant found that the petitioner being the employee of the said firm with the help of other co-accused persons named in F.I.R. after keeping the informant in dark, hatching a conspiracy and defalcated Rs. 2,08,88,940/- from the firm of the informant, thereafter this case has been registered.

Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence. He has falsely been implicated in this present case due to business rivalry. It is further stated that there is allegation of defalcation of Rs. 2,08,88,940/- against the petitioner from the informant, however, the petitioner was working for the informant. The petitioner owns a business in the name of Harda Krishi Kendra, but it has been falsely alleged that the petitioner opened this



business behind the back of the informant, however, the informant helped the petitioner to open his business in year 2019 and the informant was the main supplier to the business of the petitioner. It is next submitted that the informant has deliberately concealed the fact that the petitioner's business in the name of M/s Harda Krishi Kendra and informant's M/s Chandrika Store were doing business with each other and there is no documentary evidence corroborating the allegation levelled against the petitioner, only on the basis of suspicion, the name of the petitioner has been roped in this case. It is next submitted that informant didn't bring the correct picture in the FIR and has stated the things only to suit his case. There is also delay in the lodging of FIR by the informant. When the petitioner filed M.W. Case No. 18/21 under Minimum Wages Act, 1948 before the Presiding Officer, Labour Court, Purnea for payment of proper remuneration including over time wages, DA etc amounting to Rs. 32,17,326.51/- and compensation amount to Rs. 10,00,000/-. Thereafter the informant and his brother in connivance hatched a plan and made accused the petitioner for defalcation. When the petitioner had started asking for his due remuneration, the informant used to threaten him and after that the petitioner had filed a Misc. Petition No. 974/2021



before the learned Court of CJM, Purnea and one another M.W. Case No 18/2021 for payment of wages had been filed before the Presiding Officer, Labour Court, Purnea. Further, the details of fertilizers supplied from the firm of informant and the petitioner on different date in the year 2021 is concocted and from the bare perusal of the same, it is evident that on a single date, all the fertilizers had been supplied to the petitioner which is impossible as the petitioner doesn't have the go-down to keep so much of the fertilizers. There is no bill or invoice for the same. The allegation of receiving money for stocks supplied to different retailers in the absence of the petitioner, is also not true. The police never examined all the retailers and just on the basis of the chart prepared by the informant established that the petitioner had received money from those retailers and embezzled the same. It is further stated that the informant has alleged that the defalcation of the above said amount which is huge in sum and there should have been invoice, bill or other paper to establish that there is any defalcation made. The police also didn't recover any corroborating material to substantiate the allegation. The informant also did not disclose anything concrete in the FIR. A statement has been made in para-3 of this petition that the petitioner has got no criminal antecedent. He is



languishing in judicial custody since 04.07.2022.

The application for bail is vehemently opposed by learned APP for the State.

Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case, the Court is inclined to enlarge the petitioner on bail. The above named petitioner is directed to be enlarged on bail in connection with Sadar P.S. Case No. 311 of 2022 on furnishing bail bond of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Purnea.

(Sunil Kumar Panwar, J)

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