

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75386 of 2023

Arising Out of PS. Case No.-195 Year-2023 Thana- ASHTHAWAN District- Nalanda

PRAMOD KUMAR Son of Late Moti Lal @ Moti Prasad VILLAGE
ASTHAWAN P.S ASTHAWAN AND DISTRICT NALANDA BIHAR

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mirtunjay Griyaghey, Advocate.
For the Opposite Party/s : Mr.Parmeshwar Mehta, APP.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 29-11-2023 Heard Mr. Mirtunjay Griyaghey, 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 Asthawan P.S. Case No. 195 of 2023 registered for the
offence punishable under Section 7 of the Essential
Commodities Act.

3. As per the allegation made in the F.I.R., a raid was
conducted and on physical inspection of PDS shop of the
petitioner, shortage of 2131 Kg of rice was found and 1044.80
Kg of wheat was found in excess which shows that the
petitioner has not supplied the wheat to the beneficiaries and has
indulged in black marketing.

4. Learned counsel appearing on behalf of the
petitioner submits that the petitioner has maintained the daily



sale register as per the requirement of Bihar Targeted Public Distribution System (Control) Order, 2016 (hereinafter referred to as “Control Order, 2016”) and without verifying the same, a false case has been lodged against the petitioner. He further submits that as per Rule 20 of the 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. 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. None of the beneficiaries has reported that they have not received the food grains to which they are entitled for.

5. Learned APP for the State has vehemently opposed the prayer for grant of pre-arrest bail to the petitioner by making submission that from the very allegation made in the F.I.R., it would appear that the petitioner is involved in black marketing as evidently in the present case shortage of 2131 Kg of rice was



found and 1044.80 Kg of wheat was found in excess which were not given to the beneficiaries, as such, the petitioner don't deserve to be released on bail.

6. Having heard the rival submissions of the parties and materials on record, the inspection appears to be conducted not in accordance with Rule 20 of the Control Order, 2016 which provides for technology based inspection and supervision, 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 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 SDJM, Nalanda at Biharsharif in connection with Asthawan P.S. Case No. 195 of 2023, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

(Purnendu Singh, J)

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