

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74073 of 2023

Arising Out of PS. Case No.-220 Year-2014 Thana- CHERIYA BARIYARPUR District-
Begusarai

SAJJAN KUMAR son of Ramdeo Sah Village- Chandhaur Udaypur Ps-
Rosera Dist- Samastipur Village- Sihma Ps- Khudabandpur Dist- Begusari

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Kamal Kumar Sinha, Advocate
For the Opposite Party/s : Mr.Parmeshwar Mehta, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

2 05-12-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Cheriya Bariyarpur P.S. Case No. 220 of 2014 registered for the offences punishable under Section 7 of the Essential Commodities Act.

3. As per the prosecution case, two vehicles loaded with wheat and rice were recovered by the police. One of the truck was loaded with total 162.32 quintal of wheat and on the another truck, total 250 quintal of rice with cash memo of Sri Ram Rice Mill of the petitioner were recovered. It is further alleged that all these commodities are appeared to be of PDS Shop. The co-accused persons were involved in sale and purchase of wheat and mustard.



4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has been falsely implicated in this case. The petitioner is the owner of Sri Ram Rice Mill but nothing has been recovered in the said Mill, only cash memo of Sri Ram Rice Mill was recovered from the truck. It is further submitted that the petitioner has no concern with the alleged recovery. Learned counsel has further submitted that from the facts and circumstances of the case, it appears that the matter is well covered by the decision of this court in the case of ***Mahendra Prasad Singh Vs. State of Bihar***, reported in ***2004(3) P.L.J.R., 491***. The petitioner has clean antecedent as stated at para 3 of the bail petition.

5. Learned A.P.P. for the State has opposed the prayer for anticipatory bail of the petitioner and submitted that the recovery has been made from the petitioner's firm. He has further submitted that this court has made clear in the case of ***Gauri Shankar Roy Vs. State of Bihar vide Cr. Misc. No. 46436 of 2013*** that when a notice under Section 41A of the Cr.P.C was issued to the petitioner and in compliance of the same, the petitioner appeared before the police and gave undertaking to the police, then the petitioner can not be deemed to be in the police custody. Thus, it is humbly submitted that the petitioner can not be treated to be enlarged on police bail.



6. Considering the aforesaid facts and circumstances as well as the gravity of offence, I am of the view that no case for grant of anticipatory bail is made out. The petition is rejected and the petitioner is directed to surrender to the Court below within six weeks from the date of this order and the Court below will consider the prayer of bail of the petitioner without being prejudiced by this order.

7. The application stands rejected.

(Chandra Prakash Singh, J)

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