

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40122 of 2024

Arising Out of PS. Case No.-173 Year-2021 Thana- NAWADA MUFFASIL District- Nawada

Binod Kumar Gujar @Binod Kumar @ Vinod Kumar Gujar @ Raju Son Of
Kailash Chand Gujar Resident Of Village -Kajara, P.S.- Pilani District
-Jhunjhununu Rajasthan

... .. Petitioner/s

Versus

1. The State of Bihar
2. Bihar State Food and Civil Supplies Corporation Ltd. through SDO, Nawada
Sadar Nawada

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sushil Jhunjhunwala, Adv Mr. Santosh Kumar Sinha, Adv
For the Opposite Party/s	:	Mr. Md. Anzarul Haque Sahara, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

3 02-08-2024 Heard the parties.

2. Petitioner apprehends his arrest in connection with Nawada Muffasil P.S. Case No. 173 of 2021 registered for the offences punishable under Sections 409 and 420 read with section 34 of the Indian Penal Code.

3. Learned counsel for the petitioner submits that the petitioner is a completely innocent person and he has been made accused mainly on account of being present at the place of occurrence, as driver of the alleged truck which was seized while unloading of paddy, in fact the petitioner was discharging his duty as a driver at the direction of the truck's owner and he had no knowledge of the alleged offences. It is further submitted



that in the FIR, it is not alleged that any kind of entrustment with regard to paddy or C.M.R was made to the petitioner and there is no allegation regarding deception against the petitioner, so, the alleged offences under sections 409 and 420 of the Indian Penal Code do not attract against him. It is further submitted that the main accused, Vivekanand Sharma, the Chairman of Anti PACS who was mainly liable for the alleged misappropriation, has been granted anticipatory bail by a co-ordinate Bench of this Court vide order dated 08.08.2022 passed in Cr. Misc. No. 9763 of 2022 and the owner of the petitioner's vehicle, Amit Dewtia, has also been granted anticipatory bail by this Court vide order dated 07.06.2022 passed in Cr. Misc. No.61005 of 2021. The case of this petitioner is on better footing from the other co-accused.

4. On the contrary, learned counsel Mr. Anzarul Haque Sahara, appearing for Bihar State Food and Civil supplies Co. Ltd submits that the petitioner was present at the spot and he used the forged transit challan which was not issued by the competent authority and the same is sufficient to show the petitioner's involvement in the alleged crime.

5. Learned APP for the State has opposed the bail prayer of the petitioner.



6. Having regard to the above submissions and mainly considering the facts that the petitioner is said to be the driver of the alleged truck and the main allegation is against the co-accused, Chairman of the Anti PACS, Vivekanand Sharma, who has been granted anticipatory bail by co-ordinate Bench of this Court, the petitioner is a driver by profession having fair and clean antecedent and the prosecution has not shown the requirement of any interrogation from the petitioner, in my opinion, it is a fit case for anticipatory bail to the petitioner. Accordingly, let the petitioner named-above in the event of his arrest or surrender before the learned court below, within a period of six weeks from today, be released on bail in connection with Nawada Muffasil P.S. Case No. 173 of 2021 on furnishing bail bond of Rs.10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the Court concerned subject to the conditions laid down under section 438 (2) of the Cr.P.C.

(Shailendra Singh, J)

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