

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1814 of 2018

Arising Out of PS. Case No.-108 Year-2018 Thana- PARBATTa District- Khagaria

Ram Sagar Choudhary S/o Ramotar Choudhary, R/o Vill.- Baghwara, P.S.- Begusarai Muffassil, District- Begusarai, Proprietor M/s Sagar Food Products Karna Rice Mill, P.S.- Parbatta, District- Khagaria.

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary Food And Civil Supply Dept. Govt. Of Bihar, Patn
2. In Charge, Block Supply Officer, at Parbatta, Anumandal- Gogri, District- Khagaria.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ajay Prasad, Advocate
For the Respondent/s : Mr.Arvind Ujjwal, SC-4

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

3 26-04-2024 1. Heard learned counsel for the petitioner and
learned counsel for the respondents.

2. The petitioner has filed the instant writ application for issuance of writ in the nature of Certiorari directing the investigating authority to stop investigation on quashment of the First Information Report in connection with Parbatta P.S. Case No. 108/2018 under Section 7 of the Essential Commodities Act.

3. The case of the petitioner in brief is that the petitioner is the proprietor of the M/S Sagar Food Products Karna Rice Mill and he has been running the aforesaid mill for quite some time. One Upendra Kumar Singh, the Assistant



District Supply Officer, Khagaria-cum-Block Supply Officer, Parbatta lodged a FIR against petitioner stating *inter alia* that total 104 bags containing 50 kg subsidized rice were recovered from a Tata magic van in front of M/S Sagar Food Product Karna Rice Mill which belonged to the petitioner. Moreover 5 bags of the rice was recovered from the premises of the rice mill. It is alleged that the said rice seized by the Assistant District Supply Officer was controlled products under the Essential Commodities Act and the petitioner was in unlawful possession of the said rice which is punishable under Section 7 of the Essential Commodities Act.

4. Learned Advocate on behalf of the petitioner submits that by virtue of Central Government notification dated 15.02.2022, any dealer is authorized to freely buy, stock, sell, transport, distribute, dispose, acquire, use or consume any quantity of wheat, paddy/rice, coarse grains, sugar, edible oil/ seeds and shall not require a permit or license therefore, under any order issued under the Essential Commodities Act, 1955. Thus, the panel provision of Section 7 is not applicable in case of the seized bags of rice in connection with this case.

5. Learned counsel for the State submits that the seized rice is an essential commodity which was recovered from



a vehicle and the petitioner is liable for the offence under Section 7 of the Essential Commodities Act.

6. This Court, in various judgments consistently held that FIR under Section 7 read with Section 420 of the I.P.C. cannot be instituted because of the promulgation of the removal order (R/O) of 2002 which came into effect on and from 15.02.2002.

7. Some of the unreported decisions of this Court are as follows:-

(i) ***Cr. Misc. No. 11049 of 2021***

(Naresh Sah vs. State of Bihar & Anr.)

decided on 19th May, 2022.

(ii) ***CWJC No. 2245 of 2017 (Sandip***

Kumar Jaiswal @ Sandip Jaiswal vs.

The State of Bihar and others) decided

on 26.07.2018.

iii) ***2006 SCC Online Pat. 4 (Sriram Rai***

and Anr. vs. the State of Bihar and

others) decided on 02.01.2006.

8. This Court is in conformity with the decisions made by the Co-ordinate Bench mentioned hereinabove.

9. In view of such circumstances, the FIR was



maliciously instituted on the ground of *mala fide* by the respondents and even if the FIR is taken at its face value, it does not establish a case under Section 7 of the Essential Commodities Act.

10. Accordingly, FIR in connection with Parbatta P.S. Case No. 108 of 2018 under Section 7 of the Essential Commodities Act is quashed and set aside. The criminal case instituted against the petitioner be dropped.

11. The instant writ application is, accordingly, allowed on contest. There shall, however, be no order as to costs.

(Bibek Chaudhuri, J)

tusharika/-

U			
---	--	--	--

