

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.45377 of 2025**

Arising Out of PS. Case No.-28 Year-2025 Thana- KALUAHI District- Madhubani

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1. Om Shankar kamat S/o Shiv Sundar Kamat Resident of village and PO- Pachrukhy, P.S- Babubarahi, District-Madhubani
  2. Vinod Kumar @ Vinod Yadav S/o Ram Bahadur Yadav R/o Ward no.8, Sarabe, P.S.-Khajauli, District-Madhubani

... .. Petitioner/s

Versus

1. The State of Bihar
2. The District Manager, Bihar State Food and Civil Supplies Corporation, Darbhanga Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Ms. Namrata Mishra, Sr. Advocate

Ms. Archana Jha, Advocate

Ms. Anamika Kumari, Advocate

For the Opposite Party/s : Mr. Ajit Kumar, APP

For the O.P. No.2 : Mr. Nirmal Kumar, Advocate

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**CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH**

**ORAL ORDER**

6      21-01-2026                      Heard Ms. Namrata Mishra, learned Senior counsel along with Ms. Archana Jha, learned counsel appearing on behalf of the petitioners; Mr. Ajit Kumar, learned APP appearing on behalf of the State and Mr. Nirmal Kumar, learned counsel appearing on behalf of the O.P. No.2.

2. The petitioners apprehend their arrest in connection with Kaluahi P.S. Case No. 51290292520028 of 2025 registered



under Sections 316(2),316(3),316(5),318(4),3(5) of the Bharatiya Nyaya Sanhita (BNS), 2023 and Section 7 of the Essential Commodities Act, 1955.

3. As per the allegation made in the FIR, on the basis of a joint written application submitted by the Block Education Officer, Kaluahi, and the Assistant Godown Manager, BSFC Godown, Khajauli, an FIR was lodged alleging that pursuant to an order of the Sub-Divisional Officer, Madhubani Sadar, a three-member enquiry committee conducted an inspection on 25.02.2025, during which a vehicle bearing Registration No. BR-06-GB-8178 carrying 68 bags of rice (50 kg each) was intercepted by local people at Utkramit Madhya Vidyalaya, Malmal West, and it was found that the food grains, meant for distribution under the government scheme were being transported for the purpose of black-marketing. It was further alleged that the concerned Headmasters/Headmistress and their representatives had lifted lesser quantities of food grains than allotted to their respective schools and that the remaining stock was unauthorizedly stored on the said vehicle by the representative of the transport agent, whereupon Kaluahi P.S. Case No. 51290292520028 dated 26.02.2025 was registered against the petitioners and other accused persons.



4. Learned Senior counsel appearing on behalf of the petitioners submits that the petitioners are innocent and they have falsely been implicated in the present case. The required food grains were loaded on the truck as per the allotment in respect of three schools, amounting to 131 bags, each containing 50 kg of rice. It is admitted that 54 bags as per the allotment were to be delivered to Middle School, Kalikapur, 43 bags were to be delivered to Middle School, Pursaulia and 33 bags were to be delivered to Middle School, Malmal West. Allegation is that a vehicle bearing Registration No. BR-06-GB-8178, carrying 68 bags of rice (50 kg each) was intercepted by local people at Utkramit Madhya Vidyalaya, Malmal West, and it was found that the food grains, meant for distribution under the government scheme, were being transported for the purpose of black-marketing. Seizure list was prepared in presence of Up-Pramukh of the village and other independent witnesses. Learned Senior counsel further submitted that the petitioner no.1 was representative of the contractor, who was entrusted with the contract of transporting the food materials for mid day meals to the respective schools. The petitioner no.1, being the representative of the contractor, is nowhere concerned with the alleged black marketing of the food grains and so far as, the



petitioner no.2 is concerned, he is the driver of the said vehicle and he is unaware of the manner in which the food grains were supplied and in support learned counsel further submitted that the route through which the truck had to follow, no deviation has been found on the GPS and as such, there is no question of black marketing by these petitioners. Learned Senior counsel submitted that the petitioners are innocent and they are not involved in any black marketing, however, in any case, the contractor is responsible for any shortage of food grains or any illegal act and not the petitioners. The petitioners have clean antecedent. On these grounds the petitioners seek to be released on pre-arrest bail.

5. Learned counsel appearing on behalf of O.P. No.2 submitted that the District Manager, BSFC, Madhubani, has entered into contract with one Akhlaque, which has been brought on record by way of **annexure P/2**. As per the terms and conditions of the contract, the contractor becomes directly involved in the non-supply of the entire amount of food grains which were to be delivered to all the three respective schools, however, he informs that till date, the contract has not been terminated as per the conditions mentioned in para 4 of the Written Contract.



6. Mr. Ajit Kumar, learned APP for the State vehemently opposed the prayer for grant of pre-arrest bail and submitted that the whole procedure is prescribed under the Mid Day Meal Rule, 2015, that, any shortage of preparation of meal and maintenance of standard and quality is duly maintained by the District Programme Officer, Mid Day Meal (hereinafter referred to as the 'DPO, MDM'), who, from time to time inquires and in case he finds that there are less number of students for whom the amount of grains has been allotted, then in that case the said data shall be recorded. From the perusal of the FIR, it appears that no such evidence has been brought on record, however, he submitted that the record reveals that the erstwhile principal of the said school has admitted that the report is furnished subsequent to the allotment of the food grains. He further gives information that no inquiry has been made from the DPO, MDM in respect of any shortage or any less attendance of the children in the school and also with regard to the past conduct of the Principal/In-charge Headmaster of the three schools against whom FIR has been lodged, though the investigating officer has reported in para 59 of the case diary, that, as per the information provided by the Assistant Godown Manager, Khjaulhi from where the food grains were transported



to different schools after having been loaded on the truck bearing Reg. No. BR06GB8178 for delivering the total quota to the three schools, the respective quantity is not clear.

7. Having considered the rival submissions made on behalf of the parties, as well as, having perused the FIR and the allegation made therein, the FIR has been lodged on the basis of the joint written report of the Block Education Officer and the Assistant Godown Manager, BSFC Godown, Khajauli as per the direction of the SDO, Madhubani, Sadar, as contained in letter no.68/AAPU dated 25.02.2025 (Annexure 5), the perusal of which shows that the S.D.O. concerned has himself not inquired, nor has sought any report from the DPO, MDM. It is evident from the FIR that the allegation is that the total quantity of allotted quota to the three schools was of 131 bags of food grains, each having 50 kg out of which 54 bags as per the allotment were to be delivered to Middle School, Kalikapur, 43 bags were to be delivered in Middle School, Pursaulia and 33 bags were to be delivered in Middle School, Malmal West were loaded on the truck bearing Reg. No. BR06GB8178. The Door Step Delivery Scheme, 2016, provides the manner in which the total quantity has to be loaded, and specifically provides for tracking, unscheduled stoppage alarm, over speed temper alarm,



GPS Antenna temper alarm, ignition on/off alarm, weight reduction alarm to avoid black marketing. In the present case, it is evident that the said truck was intercepted with 68 bags of food grains, which were not delivered. It is admitted that only out of 54 bags of rice, which were to be delivered to middle school, Kalikapur, only 15 bags were delivered and out 43 bags which were required to be at middle school, Pursaulia, only 33 bags were delivered and out of 34 bags which were to be delivered at middle school, Malmal West, only 20 bags were delivered. It is also not alleged that the route of truck had deviated till the time of seizure of truck. The FIR reveals that as per the three members committee report, the in-charge Headmasters of the schools have admitted that the challan were generated in respect of total quantity and they unknowingly accepted the short amount of grains. However, the in-charge Headmasters of the three schools also admitted that on plain paper, the petitioners have obtained their signature.

8. Before I proceed to analyse, as to whether, the petitioners are innocent or they in an illegal manner have tried to sale the food grains in black market, I find that, the Mid Day Meal scheme is a Food Security Programme of Government of India, specifically targeting the requirement of good health of



the children as Right to Food is an implication of Right to Life enshrined under Article 21 of the Constitution of India. Article 21 of the Constitution of India (the 17<sup>th</sup> Amendment) of the Constitution, guarantees every citizen of the country to live with dignity and freedom. The Amendment has been brought as a result of international treaty and Government of India is under obligation for providing free meal under the Mid Day Meal (MDM) Rules, 2015. In the present case, the contractor/transporter had entered into a contract with the District Manager, Bihar State Food and Civil Supplies Corporation (BSFC), Madhubani and petitioner no.1 is the associate of the contractor and petitioner no.2 is the driver of the truck, I find it proper to reproduce the relevant part of the agreement entered into between the contractor and the District Manager, BSFC, which is reproduced hereinbelow;

*“Contractor's Staff/Workers Requirement, their duties, Behavior, etc.:*

*i)The contractor shall be directly responsible for the wages, which should not be less than minimum wages prescribed by Appropriate Authority, Provident Fund, bonus or any other benefits as may be available to its employees under relevant acts and regulations as applicable. The Corporation shall not entertain any such claim of the person/workers employed by the contractor. The compliance of all the statutory liabilities vests with the contractor.*

*ii)The contractor shall comply with all the laws and regulations applicable in the matter of such workers as are engaged by it.*

*iii)If the Contractor fails to submit the prescribed statutory compliances, the Corporation or an Officer acting on his behalf, BSFC will be at liberty to withhold the pending*



*bills, Security Deposit etc., and or any other payments due to the Contractor.*

*iv)The contractor shall be solely responsible for the redressal of grievances/resolution of disputes relating to person deployed by them. BSFC shall, in no way, be responsible for settlement of such issues whatsoever. BSFC shall not be responsible for any damages, losses, claims, financial or other injury including death to any person deployed by contractor in the course of their performing the functions/duties or payment towards any compensation. Any liability arising out of accident or death of any personnel while on duty shall be borne by the contractor.*

*v)In case of termination of this contract on its expiry or otherwise, the persons deployed by the contractor shall not be entitled to and will have no claim for any absorption in the regular or otherwise capacity in the office of BSFC. Contractor should make this known to persons deployed by him.*

*vi)The contractor's workers shall be polite, courteous, well behaved and honest.*

*vii) The contractor shall be fully responsible for any theft, burglary fire or any other mischievous deed done by its workers.*

*viii) The antecedents of all workers should be verified from local Police authority by the contractor before deployment for work. Police verification of the worker is submitted within a period of one month on entering into the contract or for a further period of up to a maximum of three months on the request made by the contractor.*

*xi) The contractors workers shall not enter into any unlawful activity within the Corporation's premises and shall have good moral character;*

*xi) Bihar State Food Corporation shall have the right to impose cash penalty on the contractor or deduct such amounts from its security deposit in case of the SFC being put to any financial loss directly or indirectly by any net of commission on the par of the contractor's workers.*

*xi)The corporations will not having any relationship with the worker engaged by the contractor.*

*xii)Insurance and accident cases of the workers will be the responsibility of the contractor.*

*xiii)All the workers of the contractor shall be free from infectious disease & shall wear uniform with Identity Card issued by the contractor for identification.*

*xiv)The contractor will ensure that*



*proper license/permission from the concerned authorities wherever applicable are obtained promptly.*

*xv)The Contractor's personnel should not consume drug/or bottle or liquor in the BSFC's premises. In case any of the personnel provided by the Contractor is found to be indulging in any suspicious activities or is found to be under the influence of alcohol or any other intoxicants while on duty or the conduct and integrity is found to be doubtful or performance is not found to be satisfactory, he/she shall be removed from duty immediately, Decision of DMSFC or an Officer acting on his behalf will be final and binding on the Contractor.*

*xvi)The contractor shall make its own lighting arrangements for working at night or daytime as per the requirement for loading/unloading/transport operations etc."*

9. In the present case, the District Manager, BSFC has not reported to the District Magistrate or to the General Manager, BSFC. Meanwhile any deviation or any signal has been found to be deviated in the manner the goods were to be transported has been found by the District Manager, BSFC. The in-charge Headmasters of the three schools have admitted that they have signed on the plain paper. District Manager, BSFC has also not denied that he has not generated the required receipt nor challan in respect of total quantity of the goods not these form part of the FIR, calling the conduct of the District Manager, BSFC and the DPO, MDM also not beyond doubt in delivering short quantities of food grains in pre-planned manner. The Sub clause X of para 4 of the Contract entered into between the contractor and the District Manager, BSFC. provides for imposition of penalty on the contractor or deducts such amount



from security deposit in case of the SFC being put to any financial loss directly or indirectly by any net of commission on the part of the contractor's workers. The liability rests upon the contractor and the District Manager, BSFC. The petitioner no.1 is representative of the contractor and the petitioner no.2 is the driver, in light of the material collected in course of investigation, I find that the petitioners have, *prima facie*, made out a case to be released on pre-arrest bail.

10. The learned District Court is directed to release the petitioners on anticipatory bail, in the event of their arrest or surrender before the learned District Court 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 District Court where the case is pending in connection with Kaluahi P.S. Case No. 51290292520028 of 2025, subject to the condition as laid down under Section 482(2) of the B.N.S.S.

**11. The learned District Court is directed to verify the criminal antecedent of the petitioners and if it is found that the petitioners are involved in some other cases, as what has been stated in paragraph No.3 of the bail application, this order will automatically lose its force.**



**12. Let a copy of this order be communicated to the Additional Chief Secretary, Education Department, Government of Bihar and to the General Manager, Bihar State Food & Civil Supplies Corporation, Darbhanga for taking appropriate action against those who are involved in black marketing.**

13. Accordingly, the present bail application stands disposed of.

**(Purnendu Singh, J)**

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