

(2021) 07 PAT CK 0067

Patna High Court

Case No: Criminal Miscellaneous No. 37229 Of 2020

Harishankar Prasad

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision: July 16, 2021**Acts Referred:**

- Indian Penal Code, 1860 - Section 406, 420

Hon'ble Judges: Ahsanuddin Amanullah, J**Bench:** Single Bench**Advocate:** Satyavrat Verma, Damodar Prasad Tiwary**Final Decision:** Disposed Of

Judgement

1. The matter has been heard via video conferencing.
2. Heard Mr. Satyavrat Verma, learned counsel for the petitioner and Mr. Damodar Prasad Tiwary, learned Additional Public Prosecutor (hereinafter referred to as the "APP"™) for the State.
3. The petitioner apprehends arrest in connection with Majhauria PS Case No. 210 of 2020 dated 19.04.2020, instituted under Sections 406/420 of the Indian Penal Code.
4. The allegation against the petitioner is that upon enquiry at the behest of the District Magistrate, West Champaran with regard to there being irregularities in the distribution of ration to the beneficiaries from the Public Distribution System (PDS) shop of the petitioner, it was found that there was deficit of 1.5 quintals of rice and excess of 1.98 quintals of wheat in the stock and, thus, it has been stated that the complaint that less amount of grain was being supplied and more was being charged for, was proved.

5. Learned counsel for the petitioner submitted that the entire exercise is a result of conspiracy against the petitioner by some vested interest for getting the PDS dealership in their favour. It was submitted that the father of the petitioner was the original license-holder who got the same in the year 1955 and thereafter, upon the death of his father in the year 1984, the petitioner has been running the shop without any complain from any quarter. It was submitted that even in the FIR, only a vague statement has been made that there was less foodgrains given to the beneficiaries for which they were being charged more than what was given, but there has been no evidence collected to show that how much foodgrains was collected or there was any weighing done of the materials which are said to have been less in quantity and further with regard to what amount had been charged. It was submitted that the mala fide of the whole exercise would be clear from the fact that the Block Development Officer, Majhauria, who is one of the signatories on the present FIR has himself lodged an FIR with regard to the incident on the day of inspection i.e., 19.04.2020 at the PDS shop of the petitioner, where he has taken the name of three persons and other unknown persons, wherein it has been stated that no complaint was made by the beneficiaries while the Block Development Officer, Majhauria was making inspection of the shop of the petitioner where the said accused had tried to create obstruction by instigating the crowd and calling their supporters due to which the Block Development Officer, Majhauria was detained for some time and had to be rescued by the police. Thus, learned counsel submitted that on the one hand, the Block Development Officer, Majhauria during inspection had found that the beneficiaries had stated that they had no complaint and were getting the provision as per the entitlement and certain elements had tried to instigate them to speak otherwise, read with the present FIR in which only statement of witnesses have been stated, but nothing supported by way of any evidence, relating to lesser amount of foodgrains or any money recovered from the petitioner's shop to indicate that the same was for an amount which was more than what was actually given to the beneficiaries, clearly renders the case without any basis for any further prosecution and would clearly be an exercise in futility. However, learned counsel submitted that for the purposes of the

present petition, he would not submit with regard to whether the FIR needs to be interfered with. Learned counsel submitted that the petitioner is an

old man aged about 76 years and further that he has no other criminal antecedent.

6. Learned APP submitted that some of the beneficiaries have stated that they had got less grain and were charged more. However, it was not

disputed that for an incident of the same day, an FIR has been lodged by the Block Development Officer, Majhauria, who is also one of the signatories

on the present FIR, and during his enquiry, the beneficiaries had stated that they had no complain and were getting foodgrains as per their entitlement.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender

before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five

thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, West Champaran, Bettiah in Majhauria

PS Case No. 210 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further (i) that one of the

bailors shall be a close relative of the petitioner, (ii) that the petitioner and the bailors shall execute bond and give undertaking with regard to the

petitioner not acting in contravention of any law, and (iii) that the petitioner shall cooperate with the Court and police/prosecution. Any violation of the

terms and conditions of the bonds or the undertaking or non-cooperation shall lead to cancellation of his bail bonds.

8. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioner, to the notice of the Court

concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner.

9. The petition stands disposed off in the aforementioned terms.