

Arti Devi Vs. the State of Jharkhand

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Court : Jharkhand

Decided On : Feb-20-2014

Judge : The Honourable Chief Justice Mrs. R. Banumathi

Appeal No. : A.B. A. No. 4736 of 2013

Appellant : Arti Devi

Respondent : The State of Jharkhand

Judgement :

1. The petitioner has filed this anticipatory bail application, apprehending her arrest in connection with Pathargama PS Case No. 117 of 2013, corresponding to G.R. No.1218 of 2013, for the offence under Section 7 of the Essential Commodities Act.

2. The case of the prosecution is that on 16.8.2013 at around 8.00 p.m. two persons were apprehended by the villagers with 48 litres of kerosene oil and that information was passed on to the Block Supply Officer, Pathargama. On enquiry, it was learnt that two persons who were carrying kerosene oil in the plastic cane on a motor cycle bearing registration on JH-17E-1903 were Mantu Kumar Mandal and Kundan Kumar. On interrogation, Mantu Kumar Mandal disclosed that he had purchased kerosene oil from Maa Gouri Swayam Sahayata Samooh, which has been authorized to sell kerosene oil vide License no. 39/09 in the area Jamua Panchayat. The said information was given to Pathargama police Station by the

villagers. On the basis of FIR, Pathargama PS Case No.117 of 2013 was registered for the offence under Section 7 of the Essential Commodities Act.

3. The learned counsel for the petitioner submitted that the petitioner is Secretary in Maa Gouri Swayam Sahayata Samooh and that apart from the confessional statements of the accused- Mantu Kumar Mandal and Kundan Kumar, no other substantive evidence is alleged as against the petitioner. It was further submitted that the statement of the co-accused cannot be taken as a substantive piece of evidence, so as to implicate the petitioner. It was also submitted that stock register maintained in Maa Gouri Swayam Sahayata Samooh does not disclose any illegal entry or discrepancy in the sale of kerosene oil. In the circumstances, when no substantive evidence is available, the petitioner prays for her release on anticipatory bail.

4. The learned Additional Public Prosecutor, appearing for the State submitted that from the statement of the co-accused Mantu Kumar Mandal and Kundan Kumar, definite material is coming against the petitioner and the petitioner being the Secretary of the said Maa Gouri Swayam Sahayata Samooh, is not entitled for anticipatory bail.

5. I have considered the submissions of the learned counsel for the petitioner and the learned APP and perused the record. It is appearing from the record that the co-accused Mantu Kumar Mandal and Kundan Kumar were apprehended along with 48 litres of kerosene oil when they were found transporting the same in the motorcycle bearing registration no.JH-17E-1903. Though the accused Mantu Kumar Mandal and Kundan Kumar are said to have confessed in the presence of independent witness that kerosene oil was purchased from Maa Gouri Swayam Sahayata Samooh, apart from the said statement of the co-accused there is no other material disclosed in the FIR. As per the Rules, a person is entitled to possess 20 litres of blue kerosene oil. There were two persons in the motor cycle, namely, Mantu Kumar Mandal and Kundan Kumar . Whether kerosene oil was actually sold to the co-accused persons for the purpose of hoarding or blackmarketing is to be seen at the time of trial.

6. Having regard to the facts and circumstances of the case, the petitioner (Arti Devi) being a lady and Secretary of Maa Gouri Swayam Sahayata Samooch is directed to be released on bail, in the event of her arrest/surrender, on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of Shri Biresh Kumar, learned Judicial Magistrate, 1st class, Godda in Pathargama PS Case No. 117 of 2013, corresponding to G.R. No.1218 of 2013, subject to the condition as laid down under Section 438(2) Cr.P.C.

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