

KADG320000342024



**IN THE COURT OF
II ADDL. CIVIL JUDGE AND JMFC HARIHAR,
AT HARIHAR**

Presided Over by SMT. JYOTI ASHOK PATTAR
(B.E., LL.B.)

C.C. No.20/2024

Dated this 29th day of January, 2026

State by Malebennur P.S.,
Malebennur

.....Complainant

Vs.

Jakeer and others.

.....Accused

ORDER ON APPLICATION FILED
U/SEC.239 OF Cr.P.C.,

The present application is filed by the Ld. Counsel for the accused No.3 and 4 U/Sec.239 of Cr.P.C., praying for discharge i.e. from the alleged offences punishable U/Sec. 3 and 7 of Essential Commodities Act 1955. In the application it is stated that in the complaint and FIR the accused No.3 and 4 names were not mentioned, that on 24.12.2022 the seizure mahazar conducted by the concerned police the accused No.3 and 4 names were mentioned and also in the confession statements

of the accused No.1 and 2. The above statements are inadmissible in the evidence. There is no prima facie case against the accused No.3 and 4 the alleged sections are not at all applicable to the case in hand and the charge sheet discloses no offence against these accused No.3 and 4. Hence, prays to discharge the accused No.3 and 4.

2. Per contra, the Ld. APP filed objection to the application on the ground that the application is not maintainable either in law or on facts. Further contended that the prosecution papers discloses the materials against the accused persons for the commission of alleged offences. Further contended that the accused has filed this application only with an intention to drag the matter and the same is liable to be rejected. On these grounds prays to reject the application.

3. Heard both the side and perused materials on record.

4. The points arise for this Court consideration are as under;

1. Whether the application filed on behalf of the accused No.3 and 4 U/Sec.239 of Cr.P.C., is deserves to be allowed?

2. What order?

5. This Court findings to the above points are as under:

Point No.1 : In the Negative

Point No.2 : As per the final order,
for the following;

REASONS

6. Point No.1 : That the case of the prosecution is that the

accused persons illegally stored the PDS rice in order to obtain wrongful gain by selling it. In the complaint and FIR the accused No.3 and 4 names were not mentioned, that on 24.12.2022 the seizure mahazar conducted by the concerned police the accused No.3 and 4 names were mentioned and also in the confession statements of the accused No.1 and 2. The above statements are inadmissible in the evidence. There is no prima facie case against the accused No.3 and 4 the alleged sections are not at all applicable to the case in hand and the charge sheet discloses no offence against these accused No.3 and 4.

7. At this stage it is pertinent to refer Sec. 239 of Cr.P.C. which reads thus;

239 When accused shall be discharged - If, upon considering the police report and the documents sent with it under section 173 and making such examination, if any, of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge the accused, and record his reasons for so doing

8. That the above provision contemplates that in order to consider an application U/sec. 239 of Cr.P.C. the entire prosecution papers needs to be looked into. That on perusal of the documents furnished by the prosecution and the contention put forth by the learned counsel for the accused

in the application and the Ld. APP it is clear that the prosecution has made out prima-facie case to proceed against the accused. It is pertinent to note that, at the time of framing of charge against the accused, it is only the material placed on record by the prosecution which needs to be considered by the Court without going into the merits of the case. In respect of seeking discharge U/sec. 239 of Cr.P.C. the accused has to show that there is no prima-facie case against him, even after relying on the entire prosecution papers. Whether the accused is guilty of the alleged offences or not can be determined only after completion of full fledged trial. The accused contended in his application that, in the complaint and FIR the accused No.3 and 4 names were not mentioned, that on 24.12.2022 the seizure mahazer conducted by the concerned police the accused No.3 and 4 names were mentioned and also in the confession statements of the accused No.1 and 2 and such statements are inadmissible in the evidence. But the ride against accused No.1 and 2, mahazer drawn therein and its contents are crucial materials of the prosecution case, which are on record. Under such circumstance the defense taken by the accused is matter of trial. Hence, by keeping open the defenses available to the accused 3 and 4 which they can take up during the course of trial of the case, this Court opines that discharging accused No.3 and 4 at this stage is not safe as there is prima facie case against the accused

No.3 and 4. Therefore, the application filed by the accused No.3 and 4 seeking their discharge does not disclose sufficient reasons to allow the application. Accordingly point No.1 is answered in the Negative.

9. Point No.2 : In view of the reasons and discussions made above, this Court proceeds to pass the following:

ORDER

The application filed by the accused
No.3 and 4 U/Sec.239 of Cr.P.C., is rejected.

C/c II Addl. Civil Judge & JMFC.,
Harihar.