

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.18917 of 2015

Arising Out of PS.Case No. -20 Year- 2013 Thana -NATWAR District- SASARAM (ROHTAS)

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Manoj Kumar son of Mahendra Prasad proprietor of Maa Vidhwasani Galla
Bhandar Lessee of Ambikaji Modern Mini Rice Mill Natwar, Resident of
Village Natwar, P.O+ P.S- Natwar, District-Rohtas(Sasaram)

.... Petitioner/s

Versus

1.The State of Bihar.
2.District Manager, Bihar State Food and Civil Supplies Corporation,
Rohtas at Sasaram.

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Jitendra Singh, Sr. Adv & Mr. Sumeet Kumar Singh, Adv
For the State	:	Mr. Abhay Kr. Roy (APP)
For the BSFC	:	Mr. Shailendra Kumar Singh, Adv

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

4 16-09-2015 Heard learned counsel for the parties.

The petitioner facing prosecution for the offences punishable under Sections-420, 406, 467 and 468 of the Indian Penal Code, has come out to say that as a matter of fact not a single paisa was owed much less misappropriated by the petitioner in respect of the allegations made in the First Information Report and infact the petitioner had been made scape-goat at the instance of Mr. Suraj Kumar, Store cum Purchase Centre Incharge, Natwar in the district of Rohtas.



Considering the similar submission, this Court by an order dated 18.06.2015, had directed for impleading the Bihar State Food and Civil Supplies Corporation (hereinafter referred to as the Corporation) and had asked learned counsel for the Corporation to take instructions and file his counter affidavit. The matter was thereafter again heard on 07.09.2015, on which date this Court had recorded as follows:-

“Though the learned counsel for the Corporation having produced instruction as well as documents goes to satisfy this Court that the petitioner had himself received a quantity of 1,02,000 quintals of paddy against which he had to supply 68,340 quintals of C.M.R. leaving the price of 11,181.20 quintals to be recovered from the petitioner at the rate of 1930/- per quintals making him liable for an amount of Rs.2,12,79,277.15 paise, Mr. Jitendra Singh, learned Senior counsel appearing on behalf of the petitioner, wants to make re-verification of the whole account given by the learned counsel for the Bihar State Food and Civil Supplies Corporation.

Put up this case on next Tuesday, i.e. 15.9.2015, as prayed for.”

Today, when this case has been taken up, Mr. Shailendra Kumar Singh, learned counsel for Bihar State Food and Civil Supplies Corporation in view of the explanation given by the petitioner as also having further instructions submits that while there would be no second thought for the Corporation in conveying to



this Court that for the allegations made in the First Information Report of this case, no amount is found to be payable by the petitioner, but then the Corporation has been put to loss of a huge amount as alleged in the F.I.R. and that the entire thing was the creation of Mr. Suraj Kumar, Store cum Purchase Centre Incharge, Natwar. He on the basis of the instructions has also submitted that the said Store cum Purchase Centre Incharge, Natwar namely Mr. Suraj Kumar is infact liable for the amount said to be due and allegedly misappropriated by the petitioner.

Once, this aspect becomes clear that the petitioner does not owe any money for the allegations made in the First Information Report, it will not allow learned counsel for the Corporation to make any roving enquiry for some other dues of the petitioner which is not the subject matter of this FIR. At the same time, this Court would also not like to close the matter by allowing the fund of the Corporation to be misappropriated by anyone including Mr. Suraj Kumar.



This Court would accordingly, direct the Corporation to take appropriate action against its erring officials including Mr. Suraj Kumar, for recovery of the dues of amount in the F.I.R. by taking appropriate steps in accordance with law for the recovery of the amount involved in this FIR.

In view of the aforesaid findings, the petitioner, having no criminal antecedent will be entitled for privilege of anticipatory bail.

That being so, if the petitioner namely, **Manoj Kumar**, surrenders within a period of four weeks from today, he would be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of **Sub Divisional Judicial Magistrate, Bikramganj, Rohtas** in connection with **Natwar P.S. Case No. 20 of 2013**, subject to the conditions laid down under Section- 438 (2) Cr. P.C and also subject to the following conditions:-

(i) That both the bailors will be close

relative of the petitioner who will give an affidavit giving genealogy as to how they are related with the petitioner. The bailors will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the bailor shall also state on affidavit that they will inform the Court concerned if the petitioner is implicated in any other case of similar nature after his release in the present case and thereafter the Court below will be at liberty to initiate the proceeding for cancellation of bail on the ground of misuse.

(iii) That the petitioner will give an undertaking that he will receive the police papers on the given date and be present on the date fixed for charge and if he fails to do so on two given dates and delays the trial in any manner, his bail will be liable to be cancelled for reasons of misuse.

(iv) That the petitioner will be well represented on each and every date of trial and if he fails to do so on two consecutive dates, his bail will be liable to be cancelled on this ground alone.

(Mihir Kumar Jha, J)

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