

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.21320 of 2015

Arising Out of PS.Case No. -151 Year- 2015 Thana -BHABHUA District- BHABHUA (KAIMUR)

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Arvind Tiwary @ Arbind Tiwary son of Shyam Bihari Tiwary resident of
village - Dughara, P.S. - Sonhan, District - Kaimur (Bhabhua).

... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sumeet Kumar Singh

For the Opposite Party/s : Mr. Ashok Kumar (App)

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

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30-07-2015

Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner apprehends his arrest in connection
with Bhabua (Sonhan) P.S. Case No. 151 of 2015 registered for
the offences punishable under Sections 409 and 420 of the Indian
Penal Code.

Learned counsel for the petitioner submits that Bihar
State Food & Civil Supplies Corporation entered into agreement
that after receipt of paddy, the second party will deliver
proportionate quantity of FAQMAR within a month from the date
of receipt of paddy and only then, he shall receive a second
delivery for further such transaction. It is further submitted that the
second party would supply prepared rice in sealed gunny bags and
he was required to make specification as laid down in the
agreement. The petitioner accordingly, entered into the agreement
with the Corporation. One of the terms of such transaction



between the parties was that if any amount was found recoverable on account of withdrawal, loss or damage, the same will be realized by the process of Certificate Case under Public Demand Recovery Act. It is further submitted by learned counsel for the petitioners that after having entered into such agreement, the petitioner for some reason or the other was unable to make the said supply and accordingly, the Civil Supplies Corporation filed a case under Public Demand Recovery Act. It is also submitted by the learned counsel for the petitioner that while entering into the agreement, he had also pledged his properties with the Corporation in tune with the transaction which was in proportionate to the amount and the quantum of agreement entered into between the parties. The said pledge having been made on the one hand and on the other, the petitioner being subjected to the process of the PDR Act, the question of lodging the FIR does not arise for the corporation against him and hence, the prosecution in FIR is purely an harassing attitude in nature. It is further submitted that different Benches of this Court passed several orders and extended the privilege of anticipatory bail to other such similar situated petitioners with condition and some others without any condition whatsoever.

Learned counsel for the Corporation is present and opposed the application made by the petitioner. The petitioner has

been required to make certain deposit before their bail bonds are so accepted.

Learned counsel for the petitioner has also placed before me an order passed by this Court passed in Cr. Misc. No. 25197 of 2015 vide order dated 08.07.2015 by a co-ordinate Bench of this Court by which this court while referring two orders dated 20.03.2015 passed in Cr. Misc. No. 44581 of 2014 and Cr. Misc. No. 43286 of 2014 has directed in the interest of justice that the petitioner be extended the same privilege.

Considering the aforementioned facts and circumstances of the case and after perusing the bail application and also the terms of the agreement, let the petitioner, in the event of his arrest or surrender before the court below within a period of two weeks from the date of receipt/production of a copy of this order, is directed to be enlarged on bail on furnishing bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, Kaimur at Bhabhua in connection with Bhabhua (Sonhan) P.S. Case No. 151 of 2015, subject to the conditions as laid down under Section 438(2) of the Cr.P.C..

(Anjana Mishra, J)

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