

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.22546 of 2015

Arising Out of PS.Case No. -152 Year- 2015 Thana -MOHANIA District- BHABHUA (KAIMUR)

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Daya Shankar Singh S/o late maharaj Narayan Singh, resident of Village-
Bhundi Tekari, P.S.-Mohania, District – Kaimur (Bhabua)

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Singh, Advocate

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

For the BSFC : Mr. Shailendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 22-05-2015 Heard learned counsels for the petitioner, Bihar State
Food Corporation and the State.

The petitioner is apprehending arrest in a case registered
for the offences punishable under Sections 409 and 420 of the
Indian Penal Code.

It is alleged that the petitioner being rice miller was
supplied 6254.93 quintals of paddy in the financial year 2012-13
and he was supposed to supply 4190.80 quintals of processed rice
by 31.12.2014, but he could not supply 3380.80 quintals of
processed rice worth Rs. 73,21,325.25/- and thereby
misappropriated the said amount.

It is submitted by learned senior counsel for the
petitioner that the rice could not be supplied due to fault on behalf
of the Bihar State Food Corporation itself and the FIR was lodged



with undue haste in derogation to the terms of agreement between the petitioner and Bihar State Food Corporation. As per Clause 16 of the Agreement the matter may be referred to the Arbitrator, the District Collector. Clause 13 of the Agreement also stipulates forfeiture of bank guarantee and attachment of pledged immovable property. The Clause 15 of the Agreement stipulates recovery of the due amount by initiation of certificate proceeding under the Bihar and Orissa Public Demands Recovery Act, 1914.

It is submitted by Mr. Shailendra Kumar Sinha, learned counsel for the Bihar State Food Corporation that as per the Clause 12 of the Agreement the Bihar State Food and Civil Supplies Corporation Ltd. is entitled to recover the due amount with penal interest and the corporation has decided not to receive the rice after the cut-off date of supply i.e. 31.12.2014.

The learned senior counsel for the petitioner further submits that the petitioner is ready to deposit 20 % of the due amount of Rs. 73,21,325.25/- before the concerned authority of Bihar State Food and Civil Supplies Corporation Ltd.

On deposit of the 20 % of the alleged due amount, let the above named petitioner be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, on furnishing bail bond of

₹10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Kaimur at Bhabua in connection with Mohania P.S. Case No.152 of 2015, subject to the conditions as laid down under Section 438(2) Cr.P.C.

The present order will not preclude the Bihar State Food Corporation to recover the rest due amount under the terms of the Agreement.

Ashwini/-

(Dinesh Kumar Singh, J)

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