

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25017 of 2015

Arising Out of PS.Case No. -19 Year- 2015 Thana -AJIMABAD District- BHOJPUR

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Pawan Kumar @ Pawan Kumar Singh, Proprietor M/s. Jai Neelkanth Rice Mill, Sandesh, Bhimpura son of Shri Nirmal Kumar Singh resident of P.O. & P.S. Bihta, District Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Manager, Bihar State Food & Civil Supplies Corporation Limited, Bhojpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Harsh Singh, Adv.
For the BSFC : Mr. Shailendra Kumar Singh, Adv.
For the State : Mr. Satyavrat Verma(APP)

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

3 26-08-2015 Heard learned counsel for the parties.

Having regard to the fact that the petitioner is made accused for offence under Sections 406 & 420 of the Indian Penal Code and Section 7 of the Essential Commodities Act, this Court would find that on verification and computation of account between the petitioner and the Bihar State Food & Civil Supplies Corporation Limited, it has been discovered that the petitioner was supplied only 29087.2 quintals of paddy and not 35955.2 quintals, the resultant loss assessed to the tune of Rs.1,24,66,661/- in the F.I.R. is also erroneous. As the things have now surfaced, the total liability of the petitioner on account of the paddy, in question,



would be to the tune of Rs. 24 lacs approximately. The petitioner claims that he has an outstanding amount of Rs. 18 lacs against the Corporation but, the counsel for the Corporation comes out with an explanation that the petitioner at best would be entitled to get a sum of Rs. 1,95,000/- against his bills.

This Court, however, is not required to go into the accounting, inasmuch as, this much is admitted that the petitioner, on account of being supplied paddy for its being returned in the form of CMR, owes certain money to the Corporation and, therefore, this Court will have to proceed on the admitted amount. Thus, as the things now stand, the petitioner will be liable to pay a sum of Rs. 22 lacs approximately even after getting discount for a sum of Rs. 2 lacs approximately against his pending bills and would not be entitled for privilege of anticipatory bail.

When such an observation has been made, Mr. Harsha Singh, learned counsel for the petitioner, has offered that the petitioner would pay a sum of Rs. 22 (twenty two) lacs to the Corporation but the same should be kept subject to the result of the pending trial against the petitioner.

In that view of the matter, this Court would direct the petitioner, namely, Pawan Kumar @ Pawan Kumar Singh to surrender before the court below within a period of six weeks from



today with a draft of Rs. 22 lacs payable in the name of Bihar State Food & Civil Supplies Corporation Limited and if he does so, he shall 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 Shri Mithilesh Kumar, Judicial Magistrate, 1st Class, Bhojpur in connection with Azimabad P.S. Case No. 19 of 2015, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. as also subject to following conditions:-

- (i) The amount of Rs. 22 lacs deposited by the petitioner in the name of Bihar State Food and Civil Supplies Corporation shall be handed over to the District Manager of the Corporation, Bhojpur but, then, this amount shall remain subject to the final outcome of the trial against the petitioner.
- (ii) That both the bailors will be a close relative of the petitioner, who will undertake 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.
- (iii) That the affidavit shall clearly state that the petitioner is not an accused in any other case and if he is, he shall not be released on bail.
- (iv) That the bailors 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.

(v) That the petitioner will be well represented on each and every date in course 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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