

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.21220 of 2015**

Arising Out of PS.Case No. -65 Year- 2015 Thana -KUDRA District- BHABHUA (KAIMUR)

Hira Sah S/o Ramdhani Sah

.... .... Petitioner/s

Versus

The State of Bihar

.... .... Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Abhay Kumar Singh, Sr. Advocate  
For the Opposite Party/s : Mr. Smt. Veena Kumari Jaiswal(App)  
For BSFC : Mr. Shailendra Kumar Singh, Advocate

**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH**

**ORAL ORDER**

2 19-05-2015

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 6600 quintals of paddy in the financial year 2013-14 and  
he was supposed to supply 4422 quintals of processed rice by  
31.12.2014, but he could not supply 3682 quintals of processed  
rice worth Rs. 96,21,769.92/- and thereby misappropriated the said  
amount.

It is submitted by learned senior counsel for the  
petitioner that the FIR was lodged with undue haste in derogation  
to the terms of agreement between the petitioner and Bihar State



Food Corporation. As per the Clause 3 of the agreement, the due amount could have been recovered by forfeiting the bank guarantee of Rs.5,00,000/- submitted by the petitioner. 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 4 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 for 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.96,21,769.92/- 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, Bhabhua in connection with Kudra P.S. Case No.65 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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