

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.25833 of 2015

Arising Out of PS.Case No. -52 Year- 2015 Thana -KAKO District- JEHANABAD

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Sri Kant Sharma, Proprietor, M/s Sri Ram Rice Mill, son of Late Shyam Narayan Sharma

.... Petitioner/s

Versus

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

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Suraj Samdarshi, Advocate

For the Opposite Party/s : Mr. Rita Verma(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 22-07-2015

Heard learned counsels for the petitioner and The Bihar State Food and Civil Supplies Corporation.

The petitioner being rice miller is apprehending arrest in a case registered for the offences punishable under Sections 406, 409, 423, 120B of the Indian Penal Code and 7 of the Essential Commodities Act.

The prosecution case is that under an agreement the petitioner was supplied 46600 quintals of paddy by the Jehanabad unit of The Bihar State Food and Civil Supplies Corporation during the agriculture season 2012-13 when he was supposed to supply 67% of custom milled rice to the tune of 31222 quintals. The petitioner supplied only 22140 quintals of custom milled rice but failed to supply 9082 quintals of processed rice worth ₹1,96,67,616/-.



It is submitted by learned counsel for the petitioner that processed rice could not be supplied due to laches on the part of the authorities of The Bihar State Food Corporation and under the terms of agreement due amount was to be recovered by initiating certificate proceeding. Though, the certificate proceeding has already been initiated being Certificate Case No. 11/2014-15 was also initiated but the same was dismissed. The petitioner is still ready to supply the balance processed rice. Moreover, petitioner has already deposited twenty lacks rupees. This fact is not being controverted by learned counsel for The Bihar State Food and Civil Supplies Corporation.

It is submitted by Mr. Shailendra Kumar Singh, learned counsel for The Bihar State Food and Civil Supplies Corporation that the petitioner failed to supply the processed rice within stipulated period i.e. 31.12.2012 and under the agreement, The Bihar State Food and Civil Supplies Corporation is empowered to initiate legal action for recovery of due amount.

The petitioner undertakes to submit bank draft of 20% of alleged due amount within a period of four months in favour of The Bihar State Food and Civil Supplies Corporation, Patna. Moreover, out of 20% of the alleged amount, the petitioner has already deposited Rs. Twenty Lacs and the same has not been

controverted by the learned counsel appearing for The Bihar State Food and Civil Supplies Corporation and now the petitioner has to deposit only ₹19,50,000/-, which the petitioner undertakes to deposit, through demand draft, within a period of four months.

Considering the present stand of the petitioner, let the above named petitioner be released on provisional anticipatory bail for five months, 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 C.J.M., Jehanabad in connection with Kako P.S. Case No.52 of 2015, subject to the conditions as laid down under Section 438(2) Cr.P.C.

The provisional bail of the petitioner will be confirmed by the learned court below on submission of draft of ₹19,50,000/- within a period of four months.

The above deposit will be subject to the certificate proceeding but will not be treated as admission of the petitioner to the claim of the informant.

(Dinesh Kumar Singh, J)

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