

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.31757 of 2015

Arising Out of PS.Case No. -183 Year- 2015 Thana -BHABHUA District- BHABHUA (KAIMUR)

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1. Lalu Sah Son of Late Chaturi Sah Proprietor of M/s Shiv Mini Polisher Mill, Bhabua, Resident of Town Bhabua, P.O. + P.S. Bhabua, District - Bhabua (Kaimur)

.... Petitioner/s

Versus

1. The State of Bihar
2. District Manager, Bihar State Food & Civil Supplies Corporation Ltd., Bhabua, Kaimur

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Radha Mohan Pandey

For the Opposite Party/s : Mr. Parmeshwar Mehta(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 05-08-2015 Heard learned counsels for the petitioner and the State.

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

The prosecution case is that Kaimur unit of Bihar State Food and Civil Supplies Corporation supplied 1869 quintals of paddy to the petitioner being rice miller under an agreement during the agricultural years 2012-13 in lieu thereof the petitioner was supposed to supply 1252.23 quintals of custom milled rice. The petitioner supplied only 539 quintals of processed rice but failed to supply 713.23 quintals of processed rice worth

Rs.15,44,542.36/-.

It is submitted by the learned counsel for the petitioner that the rice could not be supplied due to supply of poor quality of paddy and the apathetic attitude of the officials of The Bihar State Food and Civil Supplies Corporation Ltd. Moreover, under agreement the due amount was supposed to be realized by initiating certificate proceeding under the provision of Bihar and Orissa Public Demands Recovery Act, 1914 or through arbitration.

It is submitted by learned counsel for the BSFC that the petitioner failed to make supply within time frame i.e. 31.12.2013. The informant lodged the present FIR as per the terms of agreement. However, it is submitted by learned counsel for the petitioner that the petitioner will deposit 20% of the alleged due amount through bank draft in favour of Bihar State Food and Civil Supplies Corporation Ltd. within five months though statement to that effect has not been made in the petition.

Considering the present stand of the petitioner, let the above named petitioner be released on provisional anticipatory bail for six months in the event of arrest or surrender before the learned Court below within a period of six weeks from today on furnishing bail bond of Rs. 10,000/- (ten thousand) with two

sureties of the like amount each to the satisfaction of learned CJM, Kaimur at Bhabua in connection with Bhabua P.S. Case No. 183 of 2015 subject to the conditions as laid down under Section 438(2) Cr.P.C.

The aforesaid deposit will not be treated to be an admission of the petitioner with regard to the claim of the informant but the same will be subject to the certificate proceeding or any legal proceeding.

The provisional bail of the petitioner will be confirmed by the learned court below on submission of 20% of the due amount through bank draft within five months in favour of Bihar State Food and Civil Supplies, Corporation, Patna.

(Dinesh Kumar Singh, J)

Anil/-

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