

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.32148 of 2015

Arising Out of PS.Case No. -94 Year- 2015 Thana -KHIJARSARAI District- GAYA

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1. Sachidanand Sao Son of Late Rameshwar Sao, Resident of Village-naudiha, P.S. - Khizarsarai, District - Gaya.

.... Petitioner/s

Versus

1. The State of Bihar
2. Bihar State Food and Civil Supplies, Corporation through its District Manager, Gaya.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shivendra Prasad
For the Opposite Party/s : Mr. R.B.Rai Raman(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 07-08-2015 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 406,419 and 420 of the Indian Penal Code.

The prosecution case is that Gaya unit of Bihar State Food and Civil Supplies Corporation Ltd. supplied 24515.80 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 16425.59 quintals of custom milled rice. The petitioner supplied only 7818.70 quintals of processed rice but failed to supply

8606.80 quintals of processed rice worth Rs.1,86,38,541.80/-.

It is submitted by the learned counsel for the petitioner that the petitioner was actually supplied 21035 quintals of paddy in stead of 24515.80 quintals and out of that 3500 quintals of paddy was of very poor quality hence the whole calculation is wrong. It is further submitted 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. 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 Mr. Shailendra Kumar Singh, learned counsel for the BSFC that the petitioner failed to make supply within time frame i.e. 31.12.2013. The present FIR has been lodged in consonance to the terms of agreement. It is further submitted that the dispute with regard to the quantity of paddy supply is absolutely misconceived as after due verification the quantity of supply has been fixed. However, it is submitted by learned counsel

for the petitioner that the petitioner is ready deposit 20% of the alleged due amount through bank draft in favour of Bihar State Food and Civil Supplies Corporation in eight bi-monthly equal installments within sixteen 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 seventeen 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, Gaya in connection with Khizarsarai P.S. Case No. 94 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 and counter claim of the parties either with regard to the supply of paddy or with regard to the calculation of the due amount 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 sixteen months
in eight equal bi-monthly installments in favour of Bihar
State Food and Civil Supplies, Corporation Ltd., Patna.

(Dinesh Kumar Singh, J)

Anil/-

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