

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.30245 of 2015

Arising Out of PS.Case No. -109 Year- 2015 Thana -MOTIHARI MUFASIL District-
EASTCHAMPARAN(MOTIHARI)

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Om Prakash Prasad, son of late Deolal Sah

.... Petitioner/s

Versus

State of Bihar & Anr

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dhananjaya Nath Tiwari, Advocate

For the State : Mr. Hirday Prasad Singh, APP

For BSFC : Mr. Shailendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 30-07-2015

Heard learned counsels for the petitioner and The

Bihar State Food and Civil Supplies Corporation.

The petitioner 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 under an agreement the petitioner being rice miller was supplied 6262.82 quintals of paddy by the Motihari unit of The Bihar State Food and Civil Supplies Corporation during the agriculture season 2011-12 when he was supposed to supply 67% of custom milled rice to the tune of 4196.76 quintals. The petitioner supplied only 3240 quintals of custom milled rice but failed to supply 956.96 quintals of processed rice worth ₹18,19,544.53/- out of which the petitioner had deposited ₹1,85,000/-, hence, the amount comes to ₹16,34,544.53/-.

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 certificate proceeding has also been initiated being Certificate Case No. 5/2013-14. However, the petitioner is still ready to supply the balance processed rice.

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 was empowered to initiate legal action for recovery of due amount. Though, certificate case was quashed on technical ground. But appeal is preferred against the order of quashing.

The petitioner undertakes to submit bank draft of 20% of alleged due amount of ₹16,34,544.53/- within a period of five months through bank draft in favour of The Bihar State Food and Civil Supplies Corporation, Patna. 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 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 Sub-Divisional Judicial Magistrate, Sadar, Motihari, in connection with Muffasil P.S. Case No.109 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 bank draft of 20% of alleged due amount of ₹16,34,544.53/- within a period of five 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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