

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.33107 of 2015

Arising Out of PS.Case No. -34 Year- 2015 Thana -UPHARA District- AURANGABAD

Sanjay Kumar, son of Lal Mohan Prasad

.... Petitioner/s

Versus

1. State of Bihar
2. BSFC through its Director Patna

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Singh, Advocate
For the Opposite Party/s : Mr. Arun Kr. Panday (App)
For the BSFC : Mr. A. N. Rai, Advocate

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 12-08-2015

Heard learned counsels for the petitioner and Bihar

State Food and Civil Supplies Corporation Ltd.

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

The prosecution case is that under an agreement the petitioner being rice miller was supplied 11911.15 quintals of paddy by the Aurangabad unit of Bihar State Food and Civil Supplies Corporation Ltd. during the agriculture season 2012-13 in lieu thereof he was supposed to supply 7980.50 quintals of custom milled rice. The petitioner supplied only 3780 quintals of custom milled rice but failed to supply 4200.50 quintals of processed rice worth ₹90,96,372/-.

It is submitted by learned counsel for the petitioner



that the petitioner disputes calculation made by Bihar State Food and Civil Supplies Corporation Ltd. with regard to the the quantum of paddy being supplied as well as the CMR supplied by the petitioner. Hence, the entire calculation of due amount gets clouded and under the terms of agreement due amount was to be recovered by initiating certificate proceeding. Consequently, the certificate proceeding was also initiated being Certificate Case No.25/2014-15.

It is submitted by Mr. A. N. Rai, learned counsel for the Bihar State Food and Civil Supplies Corporation Ltd. that the petitioner failed to supply the processed rice within stipulated time i.e. 31.12.2013 and under the agreement, the Bihar State Food and Civil Supplies Corporation Ltd. was empowered to initiate legal action for recovery of due amount.

However, the petitioner undertakes to submit bank draft of 20% of alleged due amount within a period of 11 months, in five bi-monthly equal installments, through bank draft in favour of the Bihar State Food and Civil Supplies Corporation Ltd., 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 12 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 Chief Judicial Magistrate, Aurangabad in connection with Uphara P.S. Case No.34 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 within a period of 11 months.

The above deposit will be subject to any proceeding pending or initiated for recovery of due amount but the same will not be treated as an admission of the petitioner against the claim of the informant.

It is further clarified that this court's order will not be treated as finding with regard to the claim or counter claim of the parties. However, the petitioner would be at liberty to raise all his contentions in the certificate proceeding.

(Dinesh Kumar Singh, J)

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