

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35147 of 2015

Arising Out of PS.Case No. -228 Year- 2015 Thana -BANKA District- BANKA

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1. MAHESH PRASAD RAO @ MAHESH RAO Son of Deep Narayan Rao, resident of village - Majhgain, P.S. Rajaun District - Banka proprietor M/s Tara Food Processing.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Manager, Bihar State Food Corporation, Banka.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sushmita Mishra
For the Opposite Party/s : Mr. Prem Kumar Jha (App)

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA
ORAL ORDER

2 27-08-2015 Heard learned counsel for the petitioner and learned counsel representing the State.

Petitioner apprehends his arrest in connection with Banka P.S. Case No. 228 of 2015 registered for the offences punishable under Sections 406 and 420 of the Indian Penal Code.

Allegedly, the petitioner being the owner of M/s Tara Food Processing received paddy for supplying rice at the rate of 67% but did not deposit 954 quintals and 12 kilogram rice for the financial year 2012-13 and 431 quintals and 82 kilogram rice for the financial year 2011-12 valuing Rs. 20,66,204/- and Rs. 5,20,609/- respectively.

Submission is of false implication and that the



petitioner has already supplied rice as per the agreement and the Bihar State Food and Civil Supplies Corporation did not lift the rice and only with a view to harass lodged this case. Two certificate cases have also been lodged bearing Certificate Case No. 6 of 2014-15 for sum of Rs. 5,20,609/- which was quashed by this Court vide C.W.J.C. No. 22531 of 2014 and another Certificate Case No. 14 of 2014-15 is pending before the Certificate Officer, Banka wherein arbitration is going on. In this case similarly situated co-accused Shankar Prasad Sah has been allowed pre-arrest bail vide order dated 18.08.2015 passed in Cr. Misc. No. 31667 of 2015 and earlier also in another case pre-arrest bail has been allowed. The petitioner has already pledged sufficient properties before the BSFC and as such, there is no occasion for them to lodge the first information report. The petitioner has already deposited Rs. 3,01,220/- on 01.08.2013 vide annexure-3 which was the initial demand.

Learned counsel representing the BSFC opposes the prayer of pre-arrest bail by submitting that the petitioner has caused heavy loss by not depositing the rice and in similar cases other co-accused have been allowed bail after deposit of 20 % of defalcated amount.

In the facts and circumstances stated above, considering

that co-accused Shankar Prasad Sah has been allowed pre-arrest bail in Cr. Misc. No. 31667 of 2015 and the case of the petitioner is similar, as such, the petitioner above named, in case of his surrender or arrest within two months from the date of receipt/production of a copy of this order, shall be released on bail on execution of bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Banka in connection with Banka P.S. Case No. 228 of 2015, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Jitendra Mohan Sharma, J)

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