

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.33481 of 2015

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

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1. Sanjay Kumar Mandal Son of late Shankar Mandal resident of Village- Govindpur Chandan P.S.- Chandan District- Banka proprietor of M/s Sanjana Rice Mill, Banka

.... 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. Pushpa Sinha-Ii(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 24-08-2015 Heard learned counsels for the petitioner and the State.

Petitioner is apprehending his arrest in a case registered for the offences punishable under Sections 406 and 420 of the Indian Penal Code.

The prosecution case is that the petitioner being rice miller was supplied 11510.40 quintals of paddy by the Banka unit of The Bihar State Food & Civil Supplies Corporation Limited under agreement during the agriculture years 2012-13, in lieu thereof the petitioner was supposed to supply 7711.97 (67% of paddy supplied) quintals of Custom Milled Rice(CMR). The petitioner supplied only 4050 quintals but failed to supply 3661.97 quintals of Custom Milled Rice worth Rs. 79,30,216/-.



It is submitted by learned counsel for the petitioner that custom milled rice could not be supplied due to the latches on the part of the authorities of The Bihar State Food & Civil Supplies Corporation Limited. The agreement stipulates recovery of due amount through initiation of certification proceeding under Bihar & Orissa Public Demands Recovery Act, 1914. Consequently the certificate case No. 12 of 2014-15 has already been initiated. It is further submitted that the quantum of surety submitted by the petitioner is much higher than the quantum of due amount.

It is submitted by Mr. Shailendra Kumar Singh, learned counsel for The Bihar State Food & Civil Supplies Corporation Limited that petitioner failed to supply the processed rice within stipulated time i.e. 31.12.2013 and under the terms of the agreement legal action was permissible and consequently the present F.I.R was registered.

However, learned counsel for the petitioner admits that petitioner is ready to deposit 20% of the alleged due amount within a period of 8 months in four bi monthly equal installments through bank draft in favour of The Bihar State Food & Civil Supplies Corporation Limited, Patna. Though statement to that effect has not been made in the petition.

Considering the present stand of the petitioner, let the petitioner, above named, in the event of his

arrest or surrender before the Court below within a period of 12 weeks from today, be released on provisional anticipatory bail for nine months on furnishing bail bond of Rs. 10,000/-(ten thousand) with two sureties of the like amount each to the satisfaction of 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.

The provisional bail of the petitioner will be confirmed by learned Court below on deposit of 20% of the alleged due amount through bank draft in favour of The Bihar State Food & Civil Supplies Corporation Limited, Patna.

The aforesaid deposit will be subject to certificate proceeding but the same will not be treated as an admission of the petitioner against the claim of the informant. The petitioner is at liberty to raise the contention with regard to the release of surety before the concerned certificate officer.

Shageer/-

(Dinesh Kumar Singh, J)

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