

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35084 of 2015

Arising Out of PS.Case No. -227 Year- 2015 Thana -BANKA District- BANKA

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Md. Saif Ali @ Md. Sauquat Ali @ Shauquat Ali, Son of Md. Muslim Ali,
Resident of Village + P.O. - Rajoun, P.S. - Rajoun, District - Banka.

.... Petitioner/s

Versus

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

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Mukherjee, Advocate
For the Opposite Party/s : Mr. Ram Chandra Sahni(App)
For the BSFC : Mr. Shailendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 03-09-2015 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 and
420 of the Indian Penal Code.

The prosecution case is that under an agreement the
petitioner being rice miller was supplied 15136.40 quintals of
paddy by the Banka unit of Bihar State Food and Civil Supplies
Corporation Ltd. during the procurement years 2011-12 in lieu
thereof he was supposed to supply 10141.40 quintals of custom
milled rice. The petitioner supplied only 4741.39 quintals of
custom milled rice but failed to supply 650 quintals of processed

rice worth ₹90,23,482/-.

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 and Civil Supplies Corporation Ltd. and under the terms of agreement due amount was to be recovered by initiating certificate proceeding. Consequently, the certificate proceeding was also initiated but the same has been quashed.

It is submitted by Mr. Shailendra Kumar Singh, learned counsel for the Bihar State Food and Civil Supplies Corporation Ltd. 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 Ltd. was empowered to initiate legal action for recovery of due amount. There is appeal pending against the order of quashing the certificate proceeding.

Learned counsel for the petitioner further submits that the petitioner has already deposited ₹6,50,000/-. However undertakes to submit bank draft of 20% of alleged due amount of ₹90,23,482/- within a period of 10 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 eleven 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, Banka in connection with Banka P.S. Case No.277 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 ₹90,23,482/-, which includes ₹6,50,000/- which has already been deposited by the petitioner, within a period of 10 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.

(Dinesh Kumar Singh, J)

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