

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.34146 of 2015

Arising Out of PS.Case No. -91 Year- 2015 Thana -DUMRA District- SITAMARHI

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1. Usha Sharma Wife of Sunil Kumar Sharma Resident of Riga, P.S. Riga,
District - Sitamarhi

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Manager, B.S.F.C., Sitamarhi

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dhananjaya Nath Tiwari

For the Opposite Party/s : Mr. Jitendra Kr. Roy No.1(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 14-08-2015 Heard learned counsels for the petitioner and the

State.

The petitioner being a rice miller is apprehending

arrest in a case registered for the offences punishable under

Sections 406,409 and 420/34 of the Indian Penal Code.

The prosecution case is that Sitamarhi unit of Bihar

State Food and Civil Supplies Corporation Ltd. supplied

11269.80 quintals of paddy to the petitioner being rice miller

under an agreement during the agricultural years 2012-13 in

lieu thereof the petitioner was supposed to supply 7550.77

quintals of custom milled rice. The petitioner supplied only

4590 quintals of processed rice but failed to supply 2960.77

quintals of processed rice worth Rs.64,11,725.08/-.

It is submitted by the learned counsel for the petitioner that actually the petitioner actually supplied 18 lots of rice but the calculation has been made of 17 lots and thereby due amount increased by five lacs rupees. It is further submitted that the rice could not be supplied due to supply of poor quality of paddy and the apathetic attitude of the officials of The Bihar State Food and Civil Supplies Corporation. Moreover, under agreement the due amount was supposed to be realized by initiating certificate proceeding under the provision of Bihar and Orissa Public Demands Recovery Act, 1914 or through arbitration.

It is submitted by Mr. Shailendra Kumar Singh, learned counsel for the BSFC that one lot of rice was not up-to the mark hence it was not accepted as valid supply. The petitioner failed to make supply within time frame i.e. 31.12.2013. The present FIR has been lodged in consonance to the terms of agreement. However, it is submitted by learned counsel for the petitioner that the petitioner is ready deposit 20% of the alleged due amount through bank draft in favour of Bihar State Food and Civil Supplies Corporation Ltd. in three bi-monthly equal installments within seven

months though statement to that effect has not been made in the petition.

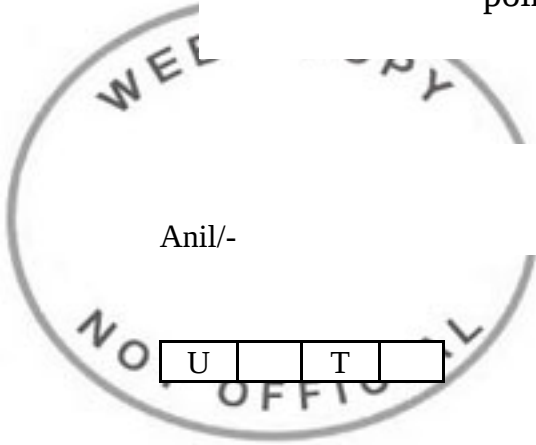
Considering the present stand of the petitioner, let the above named petitioner be released on provisional anticipatory bail for eight months in the event of arrest or surrender before the learned Court below within a period of six weeks from today on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned ACJM, Sitamarhi in connection with Dumra P.S. Case No. 91 of 2015 subject to the conditions as laid down under Section 438(2) Cr.P.C.

The aforesaid deposit will not be treated to be an admission of the petitioner with regard to the claim of the informant but the same will be subject to the certificate proceeding or any legal proceeding.

The provisional bail of the petitioner will be confirmed by the learned court below on submission of 20% of the due amount through bank draft within seven months in three equal bi-monthly installments in favour of Bihar State Food and Civil Supplies, Corporation Ltd., Patna.

So far as the claim of the petitioner with regard to under-calculation of the supply of custom milled rice is

concerned, it will be open for the petitioner to raise all these points in certificate proceeding.



(Dinesh Kumar Singh, J)