

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37207 of 2015

Arising Out of PS.Case No. -89 Year- 2015 Thana -DHAMDAHA District- PURNIA

Smt. Nirmala Devi, wife of Late Gagendra Prasad Mehta, proprietor of Om Shiv Shakti Rice Mill, Mokama, Dhamdaha, resident of Village- Mokama, P.S. Dhamdaha, District- Purnea.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Manager, BSFC, Purnea.

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. N. K. Agrawal, Sr. Advocate
Mr. Vijay Anand, Advocate

For the Opposite Party/s : Mr. T.P.Mandal(App)

For the BSFC : Mr. Shailendra Kumar Singh with
Mr. Awadhesh Kumar, Advocates

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 14-09-2015 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 406, 409 and 420 of the Indian Penal Code.

The prosecution case is that under an agreement the petitioner being rice miller was supplied 773.301 metric tonnes of paddy by the Purnea unit of Bihar State Food and Civil Supplies Corporation Ltd. during the procurement years 2013-14 in lieu thereof the petitioner was supposed to supply 518.118

metric tonnes of custom milled rice. The petitioner supplied only 54 metric tonnes of custom milled rice but failed to supply 464.11 metric tonnes of processed rice worth ₹1,15,03,244.81/-.

It is submitted by learned Sr. Counsel for the petitioner that there was a dispute with regard to quantum of paddy supplied to the petitioner and against the same the petitioner preferred CWJC No. 2199 of 2015 when the petitioner was given liberty to represent before the authorities but till date the grievance of the petitioner has not been redressed. Learned Sr. Counsel for the petitioner further submits that under the terms of agreement due amount was to be recovered by initiating certificate proceeding which has already been initiated being Certificate Case No. 92/2015-16.

It is submitted by Mr. Awadhesh Kumar, learned counsel for the Bihar State Food and Civil Supplies Corporation Ltd. that under the terms of agreement, the Bihar State Food and Civil Supplies Corporation Ltd. was empowered to initiate legal action for recovery of due amount. Hence, the present FIR has been lodged. He further submits that no discrepancy has been found with regard to the quantum of supplied paddy.

Learned Sr. Counsel for the petitioner further submits that the petitioner undertakes to submit bank draft of 20%

of alleged due amount of ₹1,15,03,244.81/- within a period of 12 months, in six 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 13 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 CJM, Purnea in connection with Dhamdaha P.S. Case No.89 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 20% of alleged due amount of ₹1,15,03,244.81/-, in six bi-monthly equal installments through bank draft.

The above deposit will be subject to any proceeding pending or being 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 the present order will not be treated as any opinion with regard to the dispute of quantum of paddy supplied to the petitioner.

(Dinesh Kumar Singh, J)

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