

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.42857 of 2015

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

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1. Jageshwar Mandal Son of Jamun Mandal, Resident of Village and Post -
Bedachak, P.S. - Panjawara, District - Banka, proprietor of M/s JayNandan
Rice Mill, At Bedachak, P.S. - Panjawara, District - Banka.

.... Petitioner/s

Versus

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

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Singh

For the Opposite Party/s : Mr. Ashok Kumar (App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH
ORAL ORDER

3 03-11-2015 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
and 420 of the Indian Penal Code.

The prosecution case is that Banka unit of Bihar State
Food and Civil Supplies Corporation Ltd. supplied 9928.14
quintals of paddy to the petitioner being rice miller under an
agreement during the procurement years 2011-12 in lieu thereof
the petitioner was supposed to supply 6651.85 quintals of custom
milled rice. The petitioner supplied only 5940 quintals of
processed rice but failed to supply 711.85 quintals of processed
rice worth Rs.10,85,159/-.



It is submitted by the learned counsel for the petitioner 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 Ltd. It is further submitted that the quantity of the paddy and the rice have wrongly been mentioned in the FIR and the said mistake perpetuated in the impugned order also. This fact has not been controverted by the learned counsel for the informant. 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 learned counsel for the BSFC that the petitioner failed to make supply within time frame i.e. 31.12.2012 and the BSFC has already initiated certificate proceeding.

However, it is submitted by learned counsel for the petitioner that the petitioner will deposit 20% of the alleged due amount through bank draft in favour of Bihar State Food and Civil Supplies Corporation Ltd. in four equal monthly installments within four 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 five 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 CJM, Banka in connection with Banka P.S. Case No. 227 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 any proceeding initiated or pending for recovery of due amount.

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 four months in four equal monthly installments in favour of Bihar State Food and Civil Supplies, Corporation Ltd., Patna.

(Dinesh Kumar Singh, J)

Anil/-

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