

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41658 of 2015

Arising Out of PS.Case No. -126 Year- 2015 Thana -RAJPUR District- BUXAR

1. Sushil Kumar, son of Gauri Shankar Prasad, resident of Village- Mahanagar, P.S.- Siswan, District- Siwan.
2. Gagan Kumar Pandey, son of Virendra Kumar Pandey, resident of Village- Sainik Colony, Rahda Nagar, P.S.- Buxar, District- Buxar.

.... Petitioners

Versus

1. The State of Bihar.
2. Bihar State Food & Civil Supplies Corporation Ltd.

.... Opposite Parties

with

Criminal Miscellaneous No.42418 of 2015

Arising Out of PS.Case No. -126 Year- 2015 Thana -RAJPUR District- BUXAR

1. Angad Singh Son of Sukath Singh, resident of village- Hakarpur, P.S. Rajpur, District- Buxar
2. Awadhesh Singh, son of Gupteshwar Singh, resident of village- Hethua, P.S.- Rajpur, District- Buxar
3. Arbind Singh, son of Ramashish Singh, resident of village & P.S.- Rajpur, District- Buxar
4. Dharmendra Singh son of Late Bhagwan Singh, resident of village- Devdhiya, P.S.- Rajpur, District- Buxar
5. Rajeshwar Singh, son of Ram Bilash Singh, Resident of Village- Uttampur, P.S.- Rajpur, Dist- Buxar
6. Arvind Singh son of Durga Singh, resident of village- Sangrawan, P.S.- Rajpur, District- Buxar

.... Petitioners

Versus

1. The State of Bihar
2. Uday Pratap Singh, District Manager, Bihar State Food and Civil Supply Corporation, Buxar

.... Opposite Parties

Appearance :

(In Cr.Misc. No.41658 of 2015)

For the Petitioners : Mr. Ajay Kumar Thakur, Advocate.

For the Opposite Parties : Mr. Nawal Kishore Prasad (App)

(In Cr.Misc. No.42418 of 2015)

For the Petitioners : Mr. Bindhakeshri Singh, Sr. Advocate.

For the Opposite Parties : Mr. R.P.S.Singh(App)

For the B.S.F.C. : Mr. Shailendra Kumar Singh, Advocate.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL ORDER

9 21-12-2015 Heard both sides.

The petitioners apprehend their arrest in a case registered for the offences punishable under Sections 406, 409, 420 and 34 of the Indian Penal Code.

Allegation against the purchase centre in-charge and the office assistant that they were entrusted to issue receipts of paddy but they did not receive any quantity of paddy and issued acknowledgement of receipts of huge quantity of paddy to the chairman of different PACS who are petitioners in Cr. Misc. No. 42418 of 2015.

Sri Ajay Kumar Thakur, learned counsel for the petitioners of Cr. Misc. No. 41658 of 2015 who are the in-charge purchase centre and office assistant submitted that different vouchers of procurement is in triplicate with three different colors yellow, red and white for the purpose of procuring paddy. The PACS are given red color vouchers whereas yellow and white colors remained in the procurement centre. The yellow color vouchers will be dispatched to the B.S.F.C. along with the documents submitted by PACS that is enforcement certificate of the Circle Officer by which the quantity of paddy which will be supplied to the centre is mentioned, a photocopy of the cheque



book of the PACS, land possession certificate and land revenue receipt of the farmers. It is further submitted that only red color vouchers were issued to the chairman of the PACS. Had there been any bad and mala fide intention on the part of the purchase centre and the assistant. They would have sent yellow color vouchers to the cooperative bank along with the cheque books for payment. True facts are that there was no proper storage place and therefore the purchase centre in-charge and the office assistant receipt acknowledgement of paddies from the chairman of the PACS without issuing any vouchers giving them verbal instruction to keep the paddy with them so that they may be lifted later on. There is no intention to misappropriate any amount of the government.

Shri Bindhakeshri Singh, learned senior counsel appearing in Cr. Misc. No. 42418 of 2015 submits that there is no verbal instruction of the chairman of the PACS handed over the paddy to the purchase centre in-charge and the office assistant who in their turn issued acknowledgement of receipts of huge quantity of paddy but the purchase centre in-charge and the office assistant did not issue the cheques nor made any payment. Consequently, the chairman of the PACS filed writ petition in this Court for payment of price of the paddy already procured by the

purchase centre in-charge. Some payments are also made. When the petitioners filed writ petition, the present case has been filed making the petitioners accused in the case whereas the petitioners have no involvement in misappropriation of paddy.

Shri Shailendra Kumar Singh, learned counsel appearing on behalf of B.S.F.C. and the learned APP, however, vehemently opposed the prayer for anticipatory bail of the petitioners and submitted that the purchase centre in-charge and the office assistant and all the chairman of the PACS in collusion with each other issued false acknowledgement of receipts of paddy at the purchase centre from different chairman of the PACS, but in fact, only some amount of paddy was received. The B.S.F.C. had no knowledge of the issue of the acknowledgement of receipts of paddy. No yellow vouchers were sent to the B.S.F.C. along with the cheque books to be paid to the farmers but when this fact was detected a thorough enquiry was held and it was thought that the purchase centre in-charge and the office assistant issued many acknowledgement of receipts to the chairman of the PACS without procuring the paddy and in lieu thereof the chairman of the PACS filed writ petition for the payment of the price of the paddy which was never given at the purchase centre.

It appears that the chairman of the PACS filed the

acknowledgement of paddy handed over to the purchase centre and claimed for payment of price but no price was paid. But on enquiry it was found that Sushil Kumar and Gagan Kumar Pandey the purchase centre in-charge and assistant of purchase centre issued many acknowledgement receipts of receiving the huge quantity of paddy but in fact only some quantity of paddy was procured from the chairman of the PACS. The petitioners in collusion with each other in order to misappropriate huge quantity of government money the chairmans of PACS also without handing over the paddy claimed to get the price of paddy.

Considering the facts aforesaid, I am not inclined to enlarge the petitioners above named on anticipatory bail. Accordingly, the same is rejected.

(Prabhat Kumar Jha, J.)

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