

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.55612 of 2015

Arising Out of PS.Case No. -61 Year- 2015 Thana -CHENARI District- SASARAM (ROHTAS)

Kamlesh Tiwari

.... Petitioner/s

Versus

State of Bihar & Anr

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kamala Kant Upadhyay

For the Opposite Party/s : Mr. Subhash Chandra Mishra (App)

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 15-12-2015

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 during the agriculture year 2011-12, petitioner being the rice miller was supplied 16404 quintals of paddy by the Sasaram unit of the Bihar State Food and Civil Supplies Corporation Ltd., in lieu thereof the petitioner was supposed to supply 10990.68 quintals of custom milled rice and he supplied only 5377.70 quintals of custom milled rice but failed to supply 5612.98 quintals of processed rice worth ₹1,06,82,230.63/- out of which the petitioner deposited ₹10,00,000/-. Now the present due amount is ₹96,82,230.63/-.

It is submitted that processed rice could not be

supplied due to laches on the part of the authorities of the Bihar State Food Corporation Ltd., and under the agreement there is provision of recovery of alleged amount by initiating certificate proceeding though Certificate Case No. 45 of 2013-14 has already been initiated. The petitioner is still ready to supply the balance processed rice.

It is submitted by Mr. Awadhesh Kumar, 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 is entitled to initiate legal action for recovery of due amount.

However, learned counsel for the petitioner submits that the petitioner is ready to deposit of 20% of present due amount of ₹96,82,230.63/- within a period of seven months in seven 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 eight 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 JM, Sasaram in connection with Chenari P.S. Case No. 61 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 present due amount of ₹96,82,230.63/- in favour of Bihar State Food and Civil Supplies Corporation Ltd., within a period of seven months in seven monthly equal installment.

The above deposit will be subject to the certificate proceeding 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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