

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 47610 of 2015

Arising Out of PS.Case No. -383 Year- 2015 Thana -SASARAM MUFFASIL District- SASARAM
(ROHTAS)

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Dinanath Thakur, Son of Late Uday Narayan Thakur, Proprietor of M/S
Yshoda Mini Rice Mill, Beda Sasaram, Resident of Village- Beda, Police
Station- Sasaram (M), District- Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Manager, Bihar State Food and Civil Supplies Corporation
Ltd. Rohtas at Sasaram.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL ORDER

3 03-11-2015 Heard learned counsel for the petitioner and
learned A.P.P. for the State.

Learned counsel for the petitioner is permitted
to make necessary correction in Paragraph 4(I) at page 3 of the
application. Let the same be made during the course of the
day.

The petitioner apprehends arrest in Sasaram
(M) P.S. Case No. 383 of 2015 dated 06.04.2015 instituted
under Sections 406/409/420 of the Indian Penal Code.

The allegation against the petitioner is of not
depositing the 67% (C.M.R.) rice as per the agreement of paddy
supplied by the opposite party no. 2 during the year 2011-12
and thus the liability of Rs. 3350 quintals C.M.R. rice has been
fixed as Rs. 6375485.50/-.



Learned counsel for the petitioner submits that the petitioner is innocent and for the same cause of action Certificate Case No. 58 of 2013-14 has also been lodged and in one such case of another person the same was quashed by a co-ordinate Bench of this Court. It is submitted that it is a breach of agreement and civil dispute and further that the opposite party no. 2 itself became defaulter as it failed to lift the rice from the premises of the mill and thus it was subjected to natural decay. Learned counsel has produced copies of orders dated 20.03.2014 in Cr. Misc. No. 50549 of 2013 and 14.08.2015 in Cr. Misc. No. 34394 of 2015, by which similarly situated persons have been granted anticipatory bail and in one case the condition is to deposit 20% of the due amount through bank draft.

Learned A.P.P. submits that the petitioner was under obligation to return the C.M.R. rice which was for the benefit of the weaker sections of the society and was public property and further the stand that the opposite party no. 2 did not pick up the rice from the mill is falsified from perusal of Clause-9 of the Contract Agreement itself which clearly stipulates that it was the duty of the petitioner to deposit the C.M.R. rice in the depot of the Food Corporation of India for which Clause-10 provides for money being paid to the petitioner for such transportation. It is thus submitted that the petitioner with mala fide intention misappropriated the rice

meant primarily for the Public Distribution System which is for the weaker sections of the society and in that view of the matter, it cannot be considered as a purely civil dispute. It is further submitted that the certificate case was quashed on a technical ground that there was no such clause in the agreement for recovery. Learned counsel submits that with regard to grant of bail to similarly situated persons, the co-ordinate Bench has also by order dated 20.04.2015 in Cr. Misc. No. 44588 of 2014 granted regular bail to the petitioner of that case. It is thus submitted that the petitioner does not deserve the privilege of anticipatory bail.

Considering the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to enlarge the petitioner on anticipatory bail.

The application, accordingly, stands dismissed.

However, in the event the petitioner surrenders and prays for bail before the Court below, the same shall be considered on its own merits, in accordance with law, without being prejudiced by the present order.

(Ahsanuddin Amanullah, J.)

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