

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36686 of 2015

Arising Out of PS.Case No. -42 Year- 2015 Thana -AKHODHIGOLA District- SASARAM
(ROHTAS)

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Avishek Kumar, son of Sri Ravishankar Prasad Singh

.... Petitioner/s

Versus

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

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Kumar Roy, Adv
For the Opposite Party/s : Mr. M.K. Khare (App)
For the BSFCSC : Mr. Ram Shankar Pradhan, Sr. Advocate
Mr. Jainendra Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

4 13-10-2015

It appears that in the last portion of the order dated 28.09.2015, the words "*In the meantime, Mr. Ram Shankar Pradhan, submits the original challan of the paddy claimed to be supplied to the petitioner.*" has wrongly been typed, let it be read as "*In the meantime, Mr. Ram Shankar Pradhan, learned Sr. Counsel for the Bihar State Food and Civil Supplies Corporation Ltd. submits that 'challan' of the paddy supplied to the petitioner, if submitted, will be verified.*"

The matter was adjourned vide order dated 28.09.2015 for two weeks on the ground that the original 'challan' will be verified by the authorities of the Bihar State Food and Civil Supplies Corporation Ltd.

The learned counsel for the petitioner submits that

none is ready to receive the said 'challan'. Though, Mr. Ram Shankar Pradhan, learned Sr. Counsel for the Bihar State Food and Civil Supplies Corporation Ltd. submits that the petitioner failed to submit the 'original challan'.

In view of the aforesaid, this Court is not inclined to adjourn the matter any further.

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 4900 quintals of paddy by the Rohtas unit of Bihar State Food and Civil Supplies Corporation Ltd. during the procurement years 2012-13 in lieu thereof he was supposed to supply 3112 quintals of custom milled rice. The petitioner supplied only 810 quintals of custom milled rice but failed to supply 2475 quintals of processed rice worth ₹53,55,429.88/-.

Mr. Jitendra Kumar Roy, learned counsel for the petitioner submits that the petitioner supplied 1619.85 quintals of CMR against the paddy supplied hence the calculation of the

due amount ought to have been made for 1683 quintals of paddy instead of 2475 quintals of paddy. Accordingly, the calculation of due amount is absolutely inflated one.

Mr. Ram Shankar Pradhan, learned Sr. Counsel for the Bihar State Food and Civil Supplies Corporation Ltd. submits that the calculations have been made after verification of the record and the authorities are still ready to verify the original challan, if it is submitted by the petitioner.

Learned counsel for the petitioner further submits that however, the petitioner is ready to submit bank draft of 20% of alleged due amount of ₹53,55,429.88/- within a period of six months, in six 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 seven 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 Judicial Magistrate, 1st Class, Dihri, Rohtas in connection with Akorhi Gola P.S. Case No.42 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 alleged due amount of ₹53,55,429.88/- in six equal installments, within a period of six months.

The present order in no way will be treated as finding with regard to the quantum of the paddy supplied by the Bihar State Food and Civil Supplies Corporation Ltd. and the CMR supplied by the petitioner.

The petitioner will be at liberty to raise all his contentions either in the arbitration proceeding or any proceeding initiated for recovery of the due amount.

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.

Ashwini/-

(Dinesh Kumar Singh, J)

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