

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.33502 of 2015

Arising Out of PS.Case No. -228 Year- 2015 Thana -BANKA District- BANKA

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1. Om Prakash Rajgaria S/o Late Radhe Shyam Rajgaria Resident of Mohalla- Shastri Chok, P.S.- Banka District- Banka.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Bihar State Food Corporation- Banka (B.S.F.C.) Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Jai Ram Singh
For the Opposite Party/s : Mr. Hirday Prasad Singh (App)
For the BSFC : Mr. Shailendra Kr. Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 31-08-2015 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 4693.55 quintals of paddy to the petitioner being rice miller under an agreement during the agricultural years 2012-13 in lieu thereof the petitioner was supposed to supply 3146.68 quintals of custom milled rice. The petitioner supplied only 1350 quintals of processed rice but failed to supply 1794.68 quintals of processed rice worth Rs.37,86,487/-.



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. 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 further submitted that the petitioner has already deposited Rs.5,00000/- in the certificate proceeding.

It is submitted by Mr. Shailendra Kumar Singh, learned counsel for the BSFC that the petitioner failed to make supply within time frame i.e. 31.12.2013 but admits that the petitioner has already deposited Rs.5,00000/- in the certificate proceeding. It is further submitted that the BSFC has already initiated legal proceeding being certificate case no. 20 of 2014-15.

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. within four months. The 20% of the alleged due amount will include Rs.5,00000/- claimed to have been deposited by the petitioner.

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. 228 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 the certificate proceeding or any legal proceeding.

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 favour of Bihar State Food and Civil Supplies, Corporation Ltd., Patna.

(Dinesh Kumar Singh, J)

Anil/-

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