

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.30729 of 2015

Arising Out of PS.Case No. -94 Year- 2015 Thana -DUMRA District- SITAMARHI

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Hari Shankar Prasad Son of Jagarnath Prasad Proprietor of Shivam Rice Mill, Baja Tola (Baj Tola), P.S. Paharpur, District - East Champaran
.... Petitioner/s

Versus

1. The State of Bihar
2. District Manager, Bihar State Civil Supply Food Corporation Ltd.
District - Sitamarhi

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Binod Kumar Mishra, Advocate
For the Opposite Party/s : Mr. Anil Kumar(App)
For the BSFC : Mr. Shailendra Kumar Singh, Advocate
Mr. Awadhesh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 31-07-2015 Heard learned counsels for the petitioner and The Bihar State Food and Civil Supplies Corporation.

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 38854.40 quintals of paddy by the Sitamari unit of The Bihar State Food and Civil Supplies Corporation during the agriculture season 2012-13 when he was supposed to supply 67% of custom milled rice to the tune of 26032.45 quintals. The petitioner supplied only 1350 quintals of custom milled rice but failed to supply 24682.45 quintals of processed rice worth ₹5,34,51,326.42/-.



It is submitted by learned counsel for the petitioner that processed rice could not be supplied due to laches on the part of the authorities of The Bihar State Food Corporation and under the terms of agreement due amount was to be recovered by initiating certificate proceeding. Though, the certificate proceeding has already been initiated being Certificate Case No.24/2014-15.

It is submitted by Mr. Awadhesh Kumar, learned counsel for The Bihar State Food and Civil Supplies Corporation that the petitioner failed to supply the processed rice within stipulated period i.e. 31.12.2013 and under the agreement, The Bihar State Food and Civil Supplies Corporation was empowered to initiate legal action for recovery of due amount.

Learned counsel for the petitioner further submits that the petitioner has already deposited ₹15 lacs subsequent to lodging of the First Information Report.

Learned counsel for The Bihar State Food and Civil Supplies Corporation submits that he will get it verified, if the aforesaid amount has been deposited, the same would be deducted from the total due amount ₹5,34,51,326.42/-.

The petitioner undertakes to submit bank draft of 20% of alleged due amount within a period of 15 months through

bank draft in favour of The Bihar State Food and Civil Supplies Corporation, 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 16 months 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 Chief Judicial Magistrate, Sitamarhi in connection with Dumra P.S. Case No.94 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 ₹5,34,51,326.42/- or if it is found that the petitioner has deposited ₹15 lacs then 20% of the deducted due amount, within a period of fifteen months.

The above deposit will be subject to the certificate proceeding but will not be treated as admission of the petitioner to the claim of the informant.

(Dinesh Kumar Singh, J)

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