

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.30969 of 2015

Arising Out of PS.Case No. -43 Year- 2015 Thana -PALANWA District-
EASTCHAMPARAN(MOTIHARI)

Mahendra Prasad Son of Late Jaimangal Rai resident of village -
Lachhumanwa, Police Station - Palanwa, District - East Champaran at
Motihari

.... Petitioner/s

Versus

- 1. The State of Bihar
- 2. The Bihar State Food & Civil Supplies Corporation, through District
Manager, East Champaran at Motihari

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ravi Shanker Pankaj
For the Opposite Party/s : Mr. Ajay Kumar Jha(App)

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 30-07-2015 Heard learned counsels for the petitioner
and the State.

The petitioner being a rice miller is
apprehending his arrest in a case registered for the offences
punishable under Sections 409, 420 and 120B of the Indian
Penal Code.

The prosecution case is that East
Champaran unit of Bihar State Food and Civil Supplies



Corporation supplied 5300.00 quintals of paddy to the petitioner being rice miller under an agreement during the agricultural year 2012-13 and the petitioner was supposed to supply 3551.00 quintals of custom milled rice. The petitioner supplied only 1620.00 quintals of custom milled rice and failed to supply 1931.00 quintals of custom milled rice worth Rs.41,81,696.36/-. It is submitted by learned counsel for the petitioner that thereafter petitioner deposited Rs.70,000/- hence, the total due amount comes to Rs.41,11,696.36/-.

It is submitted by learned counsel for the petitioner that the rice could not be supplied due to apathetic attitude of the officials of The Bihar State Food and Civil Supplies Corporation and 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 and the certificate proceeding being Certificate Case No. 33/14-15 has already been initiated and after initiation of said proceeding the petitioner has deposited Rs.7,19,767.36/-.

It is submitted by learned counsel for the BSFC that the petitioner failed to make supply within time frame i.e. 31.1.2.2013 and the BSFC has already initiated legal

proceeding for recovery of the alleged due amount.

It is submitted by learned counsel for the petitioner that the petitioner already deposited about eight lakhs rupees in two installments. In the circumstances, the petitioner is ready to deposit Rs.1,03,000/- within a period of three months through bank draft in favour of The State Food and Civil Supplies Corporation, Patna.

Considering the present stand of the petitioner, let the above named petitioner be released on provisional anticipatory bail for four months in the event of his arrest or surrender before the learned court below within a period of twelve weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, Ist Class, Raxaul at Motihari, East Champaran in connection with Palanwa P.S. Case No. 43 of 2015, subject to the conditions as laid down under Section 438(2) of the 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 Rs.1,03,000/- through bank draft within three months in favour of The Bihar State Food and Civil Supplies Corporation, Patna.

(Dinesh Kumar Singh, J)

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