

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.33996 of 2015

Arising Out of PS.Case No. -399 Year- 2013 Thana -MANER District- PATNA

Kishori Prasad

.... Petitioner/s

Versus

State of Bihar & Anr

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Suraj Samdarshi

For the Opposite Party/s : Mr. A.N. Rai, Adv.

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 28-09-2015

Heard learned counsels for the petitioner and

the State. The petitioner is apprehending arrest in a case registered for the offences punishable under Sections 406 and 409 of the Indian Penal Code.

The prosecution case is that under an agreement during the agriculture year 2011-12, petitioner being the rice miller was supplied 21290 quintals of paddy by the Patna unit of The Bihar State Food and Civil Supplies Corporation Ltd., in lieu thereof the petitioner was supposed to supply 14264.30 quintals of custom milled rice and he supplied only 8366.08 quintals of custom milled rice but failed to supply 5898.22 quintals of processed rice worth ₹1,12,25,079/-. Subsequently, Certificate Case No. 04 of 2013-14 was initiated which has been quashed.

It is submitted by learned counsel for the petitioner that for the same accusation Maner P.S. Case No. 151 of 2015 was registered under Section 406 and 420 of the IPC on 20.04.2015 and in the said case, the petitioner has been granted anticipatory bail by learned Sessions Judge vide ABP No. 2406 of 2015 on 07.05.2015.

Mr. A.N. Rai, learned counsel for the Bihar State Food and Civil Supplies Corporation Ltd., submits that both the FIRs have been filed for the same quantity of non-supply of custom milled rice.

A supplementary affidavit has been filed on behalf learned counsel for the Bihar State Food and Civil Supplies Corporation Ltd., to the effect that in view of the order of the State Government vide letter No. 1024 dated 15.04.2015, the second FIR was lodged with regard to same cause of action of non-supply of CMR but subsequently vide memo no. 1370 dated 27.05.2015, SHO, Maner was requested either to cancel the second FIR or to amalgamate both the FIRs. Paragraph no.4 of the supplementary affidavit also stipulates that for the same accusation two FIRs have been lodged, statement to that effect has been made in para 4 of the supplementary affidavit which reads as follows:-

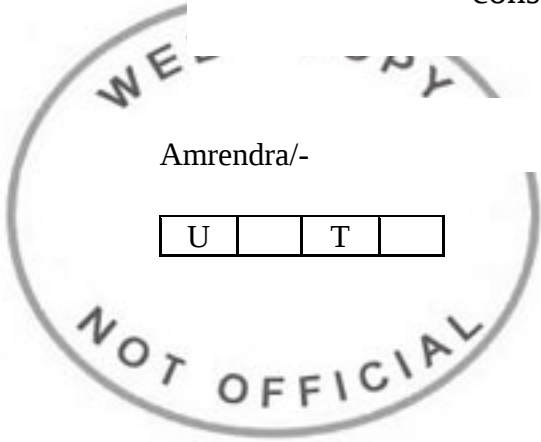
“That, in the aforesaid circumstances two FIR have been instituted by the Maner Police Station against the petitioner for the same allegation. Thus the deponent has not lodged two FIR against the petitioner intentionally for the same occurrence but due to communication gap with the Maner Police Station two FIR have been lodge”.

It is further submitted on behalf of counsel for Bihar State Food and Civil Supplies Corporation Ltd., that L.P.A. is pending against the order of quashing of certificate proceeding.

In the circumstance, since the two FIRs have been lodged for the same cause of action with the same accusation and in the subsequent FIR the petitioner has been granted anticipatory bail by learned Sessions Judge, Patna considering merits of the case, let the above named petitioner be released on anticipatory bail, 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 CJM, Danapur, Patna in connection with Maner P.S. Case No. 399 of 2013, subject to the conditions as laid down under Section 438(2) Cr.P.C.

The learned court below will be at liberty to cancel

the bail bonds of the petitioner if he defaults for three consecutive occasions.



Amrendra/-

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(Dinesh Kumar Singh, J)