

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.42499 of 2014

Arising Out of PS.Case No. -17 Year- 2014 Thana -MADHUBANI TOWN District- MADHUBANI

Domu Sah Son of Chulhai Sah (Wrongly mentioned as Chunchun Sah in the FIR) Resident of Village- Kansi Simari, P.S. - Simari, District- Darbhanga, the proprietor of Ms. Shankar Udyog Bhandar, Industrial Area, Pandaul, P.S. - Pandaul, District- Madhubani.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

Appearance :

For the Petitioner : Mr. Mrityunjay Kumar, Advocate.
Mr. Vaidehi Raman Prasad Singh, Advocate.

For the Opposite Party : Mr. Dr.Ajit Kumar (App)

For the B.S.F.C. : Mr. Ram Shankar Pradhand, Sr. Advocate.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

7 25-06-2015 Heard both sides.

The petitioner apprehends his arrest in Madhubani Town P.S. Case No. 17 of 2014, registered for the offences punishable under Sections 406, 420 and 409 of the Indian Penal Code.

In pursuance of an agreement between the B.S.F.C. and the petitioner for milling paddy, the petitioner being the owner of Shankar Udyog Bhandar, received 77,705.23 quintals of paddy in the financial year 2011 and 2012. The petitioner was to handover the rice at the rate of 67 per cent of the received paddy, but the petitioner handed over only 44,986.45 quintals of rice. The remaining 7,077.35 quintals of rice was not delivered and the cost

of which at the rate of Rs. 1903.13/quintal comes to Rs. 1,34,69,117/-. The petitioner deposited Rs. 25,00,000/-, still Rs. 1,09,69,177/- is lying due against the petitioner.

Shri Vaidehi Raman Pd. Singh, learned counsel for the petitioner submits that the petitioner again deposited Rs. 25,00,000/- during the pendency of the certificate proceeding against the amount in which cheque was issued and the same was dishonoured, but he could not furnish the dates in para-11 of the supplementary affidavit. It is submitted that about Rs. 25,00,000/- is the milling, transportation and handling charge and the same has not been paid. The petitioner is entitled for deduction of the same from the principal amount which petitioner is entitled to get from the B.S.F.C. It is further submitted that the petitioner is ready to pay the entire amount after deduction of Rs. 25,00,000/- from Rs. 84,69,117/- within four weeks.

On the other hand Shri Ram Shankar Pradhan, the learned senior counsel appearing on behalf of B.S.F.C. has submitted that the amount of milling, transportation and handling is to be verified. The petitioner has not submitted the requisite vouchers for transportation and handling charge. In absence of the aforesaid two documents the petitioner is not entitle to get any adjustment. Let the same amount be verified, checked and only

thereafter be adjusted.

Since the petitioner is ready to pay Rs. 60,00,000/- within four weeks from today and if the petitioner deposits the entire amount within four weeks, the petitioner above named in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, is directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Madhubani in Madhubani Town P.S. Case No. 17 of 2014, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The petitioner shall submit the detailed vouchers with regard to milling, transportation and handling within one month and the B.S.F.C. after scrutinizing the entire details will settle the disputes within two weeks and if it is found that the petitioner is not entitled for adjustment of the aforesaid amount the petitioner shall deposit the remaining amount within three months thereafter.

The deposit of the amount of Rs. 60,00,000/- shall be subject to the result of the case.

(Prabhat Kumar Jha, J.)

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