

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.33304 of 2015

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

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1. Uttam Kumar Sah Son of Narayan Sah Resident of Vijay Nagar, P.S. and District - Banka, proprietor Maha Lakshmi Rice Mill, Jhirwa,P.S. and District - Banka

.... Petitioner/s

Versus

1. The State of Bihar
2. District Manager, Bihar State Food Corporation, Banka

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Singh
For the Opposite Party/s : Mr. D.P.Tiwary(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 26-08-2015 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 35248.17 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 23616.27 quintals of custom milled rice. The petitioner supplied only 12960 quintals of processed rice but failed to supply 10656.27 quintals of processed rice worth Rs.2,30,76,792.00/-.



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. 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 certificate proceeding has been quashed.

It is submitted by Mr. Awadhesh Kumar, learned counsel for the BSFC that the petitioner failed to make supply within time frame i.e. 31.12.2013. The present FIR has been lodged in consonance to the terms of agreement. The appeal is pending against the order of quashing of certificate proceeding.

However, it is submitted by learned counsel for the petitioner that the petitioner is ready deposit 20% of the alleged due amount through bank draft in favour of Bihar State Food and Civil Supplies Corporation in six bi-monthly equal installments within twelve months 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 thirteen 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 twelve months in six equal bi-monthly installments in favour of Bihar State Food and Civil Supplies, Corporation Ltd., Patna.

(Dinesh Kumar Singh, J)

Anil/-

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