

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35043 of 2015

Arising Out of PS.Case No. -89 Year- 2015 Thana -SHEOHAR District- SHEOHAR

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Rakesh Kumar @ Rakesh Thakur

.... Petitioner/s

Versus

1. State of Bihar
2. The District Manager, BSFC, Sheohar

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. N. K. Agrawal, Sr. Advocate
		Mr. Dhananjaya Nath Tiwari, Advocate
For the Opposite Party/s	:	Mr. M.Haque(App)
For the BSFC	:	Mr. Shailendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 03-09-2015

Heard learned counsels for the petitioner and Bihar

State Food and Civil Supplies Corporation Ltd.

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 the petitioner being rice miller was supplied 50108.20 quintals of paddy by the Sheohar unit of Bihar State Food and Civil Supplies Corporation Ltd. during the procurement years 2012-13 in lieu thereof he was supposed to supply 33572.05 quintals of custom milled rice. The petitioner supplied only 9450 quintals of custom milled rice but failed to supply 24122.50 quintals of processed rice worth ₹5,22,38,708.11/- but the petitioner has

already deposited ₹5,00,000/- (five lacs). Hence, the present amount comes to the tune of ₹5,17,38,721/-.

It is submitted by learned Sr. 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 and Civil Supplies Corporation Ltd. and under the terms of agreement due amount was to be recovered by initiating certificate proceeding. Consequently, the certificate proceeding was also initiated being Certificate Case No.4/2014/15 and the petitioner has already deposited ₹5,00,000/- (five lacs) and has supplied 270 quintals of custom milled rice which has not been shown to be deposited in the FIR.

It is submitted by Mr. Shailendra Kumar Singh, learned counsel for the Bihar State Food and Civil Supplies Corporation Ltd. that the petitioner failed to supply the processed rice within stipulated period i.e. 31.12.2013 and admits deposit of ₹5,00,000/- (five lacs) by the petitioner and undertakes to get the factum of supply of 270 quintals of custom milled rice verified in due course.

It is further submitted by learned Sr. Counsel for the petitioner that the petitioner undertakes to submit bank draft of 20% of alleged due amount of ₹5,22,38,708.11/-, which will



inclusive of ₹5,00,000/- (five lacks) which has already been deposited by the petitioner, if it is found that petitioner has already supplied 270 quintals of custom milled rice which has not been taken into account at the time of lodging of the FIR, within a period of 12 months through bank draft in favour of the Bihar State Food and Civil Supplies Corporation Ltd., 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 13 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, Sheohar in connection with Sheohar P.S. Case No.89 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 ₹5,22,38,708.11/- within a period of 12 months. The said 20% of the alleged due amount will include ₹5,00,000/- (five lacs), which has already been deposited and in verification, if it is found that the petitioner has already

supplied 270 quintals of CMR, the said amount will be adjusted in six bi-monthly equal installments in favour of the Bihar State Food and Civil Supplies Corporation Ltd.

The above deposit will be subject to any proceeding pending or initiated for recovery of due amount but the same will not be treated as an admission of the petitioner against the claim of the informant.

Ashwini/-

(Dinesh Kumar Singh, J)

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