

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.49211 of 2015

Arising Out of PS.Case No. -246 Year- 2015 Thana -BUXAR MUFFSIL District- BUXAR

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1. Amrendra Prasad Chaudhary S/o Late Hari Prasad Chaudhary of village
- Jagdishpur, P.S. Jagdishpur, District - Bhojpur

.... Petitioner

Versus

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

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Anuj Kumar, Advocate.

For the BSFC : Mr Awadhesh Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

2 06-11-2015 Heard Mr. Hemendra Prasad Singh, Sr. Advocate,

for the petitioner and Mr. Awadhesh Kumar for the Bihar State

Food and Civil Supplies Corporation (for short 'the

Corporation') are present.

Petitioner apprehends his arrest in connection with

Buxar(M) P.S. case no.246 of 2015, registered under Sections 409

and 420 of the IPC

As Junior Engineer he was in-charge of the

purchase of wheat during the Rabi season of the year 2012-13.

The allegation, in substance, is that 17162 quintals of wheat was

procured and only 15056. 65 quintals was either made available

to the Food Corporation of India or auction sold. Remaining

1431. 361 quintals of wheat was not made available. In this way, the petitioner in collusion with other staff deployed for the purposes of procurement of wheat misappropriated the government fund.

Contention of the petitioner is that a Public Demand Recovery proceeding has already been initiated against the petitioner for recovery of the government dues. It is further submitted that against whom there is similar allegation have been released on anticipatory bail on condition of deposit of certain percentage of misappropriated amount. The petitioner is ready to deposit the amount as directed by this Court without prejudice to his right and contention in the case or the pending litigation before the Certificate Officer. Petitioner being a government servant shall not misuse the privilege of bail, if granted by this Court and submit to the jurisdiction of the Court as and when required.

Counsel for the Corporation has, however, not disputed the contention of the petitioner that some accused persons have been released on anticipatory bail on condition(s) of deposit.

Having considered the submissions, it is directed in the event of his arrest/surrender before the learned Court below



within a period of five weeks from today, petitioner, named above, shall be released on provisional bail for a period of 04 months therefrom on furnishing bail bonds of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Buxar, in connection with Buxar (M) P.S. case no. 246 of 2015, subject to the condition as laid down under Section 438 (2) of the Cr.P.C. with further following conditions:-

- (i) Along with the bail bonds the petitioner must produce receipt showing deposit of 15% of the misappropriated amount as depicted in the FIR with the Corporation. Before expiry of the period of provisional bail, the petitioner shall file an application for confirmation of the bail annexing therewith deposit of further 15% of the misappropriated amount as depicted in the FIR whereafter learned Court below shall confirm the bail.
- (ii) Other condition of the bail is that one of the bailors shall be the own/close family member of the petitioner.
- (iii) As soon as the charges are framed the petitioner



shall appear in person before the trial court on the date(s) fixed at the trial. In case of default in such appearance on two consecutive dates, the trial Court shall have liberty to cancel the bail bonds of the petitioner and secure his arrest in accordance with law.

It is clarified that such deposit of the amount as a condition of bail shall be without prejudice to his right and contention either in the present case or in the pending Public Demand Recovery proceedings.

(Kishore Kumar Mandal, J)

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