

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.51120 of 2015

Arising Out of PS.Case No. -19 Year- 2014 Thana -MADHUBANI TOWN District- MADHUBANI

Suman Prem, Proprietor Of M/s R.N. Rice Mill, Kuadh, Jaynagar S/o Sri Rishi Narayan Singh, resident of Village & P.O.- Kuadh, Main Road Jaynagar, Near Marwari Temple, Ward No.9 Jaynagar, P.O. & P.S.- Jaynagar, District- Madhubani, PIN- 84722.

.... Petitioner/s

Versus

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

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Binod Kumar Singh

For the Opposite Party/s : Mr. Indu Bala Pandey(App)

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

02/ 09-11-2015

Heard learned counsels for the petitioner and the State.

The petitioner being a rice miller is apprehending his arrest in a case registered for the offences punishable under Sections 406, 409 and 420 of the Indian Penal Code.

The prosecution case is that Madhubani unit of Bihar State Food and Civil Supplies Corporation supplied 35507.72.000 quintals of paddy to the petitioner being rice miller



under an agreement during the procurement years 2011-12 and in lieu thereof the petitioner was supposed to supply 23790.77.000 quintals of custom milled rice. The petitioner supplied only 9589.48.958 quintals of custom milled rice and failed to supply 14201.28.042 quintals of custom milled rice worth Rs.2,70,26,282.00/-.

It is submitted by learned counsel for the petitioner that the calculation of the rice supplied has wrongly been made as the authorities firstly failed to lift the rice and allowed it to rot and then lifted the rice but the calculations of rice supplied and the due amount have been made on mere presumptions. The rice mill of the petitioner was sealed by the authorities, hence they can not claim any due. The certificate proceeding has already been quashed and even assuming the accusation no offence under Section 420 of the IPC is made out.

It is submitted by Mr. Nirmal Kumar learned counsel for the BSFC that the petitioner failed to make supply within time frame i.e. 31.12.2012. The appeal is pending against the order of learned Single Judge quashing certificate proceeding. The order of learned Single Judge also stipulates of taking measures for recovery of the alleged due amount.

However, it is submitted by learned counsel

for the petitioner that the petitioner is ready to deposit 20% of the alleged due amount of Rs.2,70,26,282.00/- through bank draft in favour of The State Food and Civil Supplies Corporation Ltd., Patna within sixteen months in eight bimonthly equal installments. 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 seventeen months in the event of his arrest or surrender before the learned court below within a period of twelve weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Madhubani in connection with Nagar P.S. Case No. 19 of 2014, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The provisional bail of the petitioner will be confirmed by the learned court below on submission of 20% of the due amount of Rs.2,70,26,282.00/- through bank draft within sixteen months in eight bimonthly equal installments in favour of The Bihar State Food and Civil Supplies Corporation Ltd., Patna.

The above 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 proceeding being initiated or pending for recovery of the due amount.

(Dinesh Kumar Singh, J)

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