

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.53614 of 2015

Arising Out of PS.Case No. -272 Year- 2015 Thana -SAKRA District- MUZAFFARPUR

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1. Brajesh Kumar Singh, son of Kaushalendra Prasad Singh, Resident of Village- Mahesi, Police Station- Sakra, District- Muzaffarpur.
 2. Vishnudeo Rai, son of Yogendra Rai, Resident of Village- Vijaypura, Police Station- Baligaon, District- Vaishali.
 3. Ranjan Kumar, son of Birchandra Rai, Resident of Village- Khwajipur Basti, Police Station- Baligaon, District- Vaishali.

.... Petitioner/s

Versus

The State of Bihar through The Managing Director, Bihar State Food And Civil Supplies Corporation Limited.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mukesh Kumar Jha

For the Opposite Party/s : Mr. Shailendra Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

02/ 26-11-2015

Heard learned counsels for the petitioners and the State.

The petitioners being a rice miller are apprehending their 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 Muzaffarpur



unit of Bihar State Food and Civil Supplies Corporation supplied 5454.90 quintals of paddy to the petitioners being rice miller under an agreement during the procurement years 2012-13 and in lieu thereof the petitioners were supposed to supply 3654.78 quintals of custom milled rice. The petitioners supplied only 2160.00 quintals of custom milled rice and failed to supply 1494.783 quintals of custom milled rice worth Rs.32,37,042.27/-.

It is submitted by learned counsel for the petitioners that the paddy was taken by four partners and none of the partners namely, Munni Devi, though, she is party to the agreement but she has not been made accused present case and Munni Devi filed a petition before the authority that she is ready to make payment of the due amount. The rice could not be supplied due to apathetic attitude of the officials of The Bihar State Food and Civil Supplies Corporation and 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 submitted by Mr. Shailendra Kumar Singh learned counsel for the BSFC that the petitioner failed to make supply within time frame i.e. 31.12.2013 and the BSFC

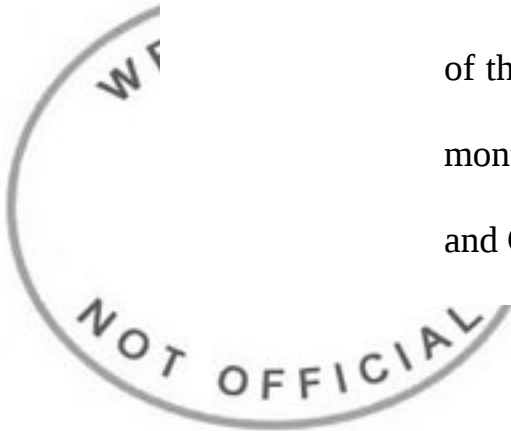
under the terms of agreement was authorized to initiate legal proceeding for recovery of the alleged due amount.

However, it is submitted by learned counsel for the petitioners that the petitioners will deposit 20% of the alleged due amount through bank draft in favour of The State Food and Civil Supplies Corporation within four months in four equal monthly installments. Though, statement to that effect has not been made in the petition.

Considering the present stand of the petitioners, let the above named petitioners be released on provisional anticipatory bail for five months in the event of their 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) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Muzaffarpur in connection with Sakra P.S. Case No. 272 of 2015, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The aforesaid deposit will not be treated to be an admission of the petitioners 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 petitioners will be confirmed by the learned court below on submission of 20% of the due amount through bank draft within four months in four monthly equal installments in favour of The Bihar State Food and Civil Supplies Corporation Ltd., Patna.



(Dinesh Kumar Singh, J)

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