

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.21301 of 2015

Arising Out of PS.Case No. -112 Year- 2015 Thana -MOHANIA District- BHABHUA (KAIMUR)

=====

Awadhesh Kumar Singh Son of Sri Krishna Singh, Resident of Village-
Dudhra, P.S. - Mohania, District - Kaimur (Bhabhua).

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Sumeet Kumar Singh, Advocate

For the Opposite Party/s : Mr. A.Dayal(App)

For the BSFC : Mr. Shailendra Kumar Singh, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 20-05-2015 Heard learned counsels for the petitioner, Bihar State

Food Corporation and the State.

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

The prosecution case is that the Bihar State Food
Corporation supplied 5000 quintals of paddy to the petitioner and
the petitioner was supposed to supply 3350 quintals custom milled
rice but he failed to supply 1198.35 quintals of rice and thereby
misappropriated Rs. 29,52,832.46/-.

It is submitted by learned counsel for the petitioner that
the Bihar State Food Corporation never gave any notice as per
terms of Agreement. Moreover, the BSFC under agreement was

sufficient to recover the amount by invoking Bank Guarantee, attachment and sale of the pledge immovable property and ultimately as per Clause 15 of the agreement the recovery was to be made by initiating certificate proceeding under Bihar & Orissa Public Demand Recovery Act, 1914.

It is submitted by learned counsel for the BSFC that as per Clause 10 of the Agreement the petitioner was supposed to transport the rice to the BSFC go-down and as per as per Clause 4, the BSFC wa entitled to recover the amount with penal interest.

Learned counsel for the petitioner further submits that the petitioner is ready to deposit 20 % of the alleged amount within a period of four months.

Considering the aforesaid facts, let the above named petitioner be released on provisional anticipatory bail for four 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, Bhabhua in connection with Mohania P.S. Case No.112 of 2015, subject to the conditions as laid down under Section 438(2) Cr.P.C.

The provisional bail of the petitioner shall be confirmed

by the learned court below only when the petitioner produces receipt showing deposit of 20 % of the alleged amount within the aforesaid period.

However, the present order will not preclude the Bihar State Food Corporation to recover the rest amount under the terms of agreement.

(Dinesh Kumar Singh, J)

Ashwini/-

U		T	
---	--	---	--