

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.31964 of 2015

Arising Out of PS.Case No. -159 Year- 2015 Thana -MOHANIA District- BHABHUA (KAIMUR)

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1. Nirmal Kumar Sah Son of Late Ram Jee Sah, Proprietor of Hans Agro Mini Rice Mill, Darwan, Mohania, Resident of vill. - Darwan, P.S. Mohania, District - Kaimur

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Radha Mohan Pandey

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

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 06-08-2015

Heard learned counsels for the petitioner and the State.

The petitioner being a 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 Kaimur unit of Bihar State Food and Civil Supplies Corporation Ltd. supplied 2000 quintals of paddy to the petitioner being rice miller under an agreement during the agricultural years 2011-12 in lieu thereof the petitioner was supposed to supply 1340 quintals of custom milled rice. The petitioner supplied only 270 quintals of processed rice but failed to supply 1070 quintals of processed rice worth Rs.20,36,349.10/-. Subsequently, the petitioner deposited Rs.2,00000/- hence now the

due amount comes to Rs.18,36,349.10 though in the FIR and the impugned order the due amount has been recorded as 23,00,194.20/- as the calculation has not been made after deducting the cost of supplied custom milled rice to the tune of 270 quintals.

It is submitted by the learned counsel for the petitioner that the rice could not be supplied due to supply of poor quality of paddy and the apathetic attitude of the officials of The Bihar State Food and Civil Supplies Corporation Ltd. Moreover, 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 learned counsel for the BSFC that the petitioner failed to make supply within time frame i.e. 31.12.2013 and though the certificate case has been quashed but the appeal against the quashing of certificate proceeding is pending. However, it is submitted by learned counsel for the petitioner that the petitioner will deposit 20% of the alleged due amount of Rs.18,36,349.10 through bank draft in favour of Bihar State Food and Civil Supplies Corporation Ltd. within five months.

Considering the present stand of the petitioner, let the above named petitioner be released on provisional anticipatory

bail for six months in the event of arrest or surrender before the learned Court below within a period of six weeks from today on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned CJM, Kaimur in connection with Mohania P.S. Case No. 159 of 2015 subject to the conditions as laid down under Section 438(2) Cr.P.C.

The aforesaid 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 the certificate proceeding or any legal proceeding.

The provisional bail of the petitioner will be confirmed by the learned court below on submission of 20% of the due amount through bank draft within five months in favour of Bihar State Food and Civil Supplies, Corporation Ltd., Patna.

(Dinesh Kumar Singh, J)

Anil/-

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