

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35287 of 2015

Arising Out of PS.Case No. -228 Year- 2015 Thana -BANKA District- BANKA

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1. Madan Sah Son of Late Shankar Sah Resident of Village - Motihat, P.S. - Barahat, District - Banka Proprietor M/S Anand Rice Mill, At Motihat, P.S. - Barahat, District - Banka.
 2. Bajrang Sah Son of Late Rajendra Sah Resident of Village - Motihat, P.S. - Barahat, District - Banka, Proprietor M/S Rekha Rice Mill, At Motihat, P.S. - Barahat, District - Banka.

.... Petitioner/s

Versus

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

... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Singh, Advocate
For the Opposite Party/s : Mr. D.P.Tiwary(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 20-08-2015 Heard learned counsel for the petitioners and the State.

The petitioners being rice millers are apprehending their arrest in a case registered for the offences punishable under Sections 406 and 420 of the Indian Penal Code.

The prosecution case is that under an agreement the petitioner no. 1 being the rice miller was supplied 4416.80 quintals of paddy by the Banka unit of The Bihar State Food and Civil Supplies Corporation Limited during the agriculture years 2012-13 in lieu thereof he was supposed to supply 2959.26 quintals of custom milled rice but the petitioner supplied only 1080 quintals of custom milled rice and failed to supply 1879.26 quintals of processed rice worth Rs. 4069650/-



whereas petitioner no. 2 supplied 9503 quintals of paddy by the Banka unit of The Bihar State Food and Civil Supplies Corporation Limited during the agriculture years 2012-13 when he was supposed to supply 6367.01 quintals of custom milled rice but the petitioner supplied only 1890 quintals of custom milled rice and failed to supply 4477 quintals of processed rice worth Rs. 9695233/-.

It is submitted that processed rice could not be supplied due to laches on the part of the authorities of Bihar State Food Civil and Civil Supplies Corporation Limited 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 learned counsel for the Bihar State Food and Civil supplies Corporation Limited that the petitioners failed to supply the processed rice within stipulated period i.e. 31.12.2013 and under the agreement, the Bihar State Food and Civil Supplies Corporation has already initiated legal proceeding being Certificate Case No. 10/2014-15 and Certificate Case No. 15/2014-15.

However, it is submitted by Mr. Shailendra Kumar Sinha, learned Senior Counsel for the petitioners that the petitioners will deposit 20% of the alleged due amount through bank draft in favour of the Bihar State Food and Civil Supplies

Corporation Limited within five months and ten months.

Considering the present stand of the petitioners, let the petitioner no.1 namely Madan Sah be released on provisional anticipatory bail for six months and petitioner no. 2 namely Bajrang Sah be released on provisional anticipatory bail for 11 months in the event of their 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) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Banka in connection with Banka P.S. Case No. 228 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 petitioners with regard to the claim of the informant but the same will be subject to the Certificate Proceedings or any legal proceeding.

The provisional bail of the petitioners will be confirmed by the learned court below on submission of draft of 20% of alleged due amount within a period of five months and ten months in favour of the Bihar State Food and Civil Supplies Corporation, Patna.

(Dinesh Kumar Singh, J)

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