

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.35373 of 2015**

Arising Out of PS.Case No. -285 Year- 2015 Thana -SAHARSA District- SAHARSA

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Lalneshwar Jha S/o Late Tara Charan Jha

.... .... Petitioner/s

Versus

1. The State of Bihar.
2. Bihar State Food and Civil Supply Corporation through the District Manager, Saharsa.

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Shiva Shankar Sharma, Advocate

For the Opposite Party/s : Mr. P.N.Pandit(App)

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH**

ORAL ORDER

2 09-09-2015

Heard learned counsels for the petitioner and Bihar

State Food and Civil Supplies Corporation Ltd.

The petitioner 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 under an agreement the petitioner being rice miller was supplied 5994.80 quintals of paddy by the Saharsa unit of Bihar State Food and Civil Supplies Corporation Ltd. during the procurement years 2012-13 in lieu thereof he was supposed to supply 4016.52 quintals of custom milled rice. The petitioner supplied only 270 quintals of custom milled rice but failed to supply 3746.51 quintals of processed rice worth ₹81,13,284/-.

It is submitted by learned counsel for the petitioner



that processed rice could not be supplied due to laches on the part of the authorities of the Bihar State Food and Civil Supplies Corporation Ltd. and under the terms of agreement due amount was to be recovered by initiating certificate proceeding which has already been initiated. He further submits that 4000 quintals of rice was supplied to the petitioner in 2014 after the procurement made which gets reflected from the document enclosed in the FIR lodged by the authorities of the Bihar State Food and Civil Supplies Corporation Ltd. and the petitioner has already deposited ₹4,00,000/-.

It is submitted by Mr. Shailendra Kumar Singh, learned counsel for the Bihar State Food and Civil Supplies Corporation Ltd. that the petitioner 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 Ltd. was empowered to initiate legal action for recovery of due amount.

Learned counsel for the petitioner further submits that the petitioner undertakes to submit bank draft of 20% of alleged due amount of ₹81,13,284/- within a period of eight months, in four bi-monthly installments, in favour of the Bihar State Food and Civil Supplies Corporation Ltd., Patna. Though

statement to that effect has not been made in the petition. The 20% of the alleged due amount of ₹81,13,284/- will include Rs. ₹4,00,000/- already deposited by the petitioner as the same has not been controverted by learned counsel for the Bihar State Food and Civil Supplies Corporation Ltd.

Considering the present stand of the petitioner, let the above named petitioner be released on provisional anticipatory bail for nine 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, Saharsa in connection with Saharsa Sadar P.S. Case No.285 of 2015, subject to the conditions as laid down under Section 438(2) Cr.P.C.

The provisional bail of the petitioner will be confirmed by the learned court below on submission of bank draft of 20% of alleged due amount of ₹81,13,284/-, in four bi-monthly installments, which will included ₹4,00,000/- which has already been deposited by the petitioner, within a period of eight months. Though statement to that effect has not been made in the petition.

The above deposit will be subject to any proceeding pending or being initiated for recovery of due amount but the same

will not be treated as an admission of the petitioner against the claim of the informant.

Ashwini/-

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**(Dinesh Kumar Singh, J)**

