

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.39014 of 2015

Arising Out of PS.Case No. -27 Year- 2015 Thana -DARIHAT District- SASARAM (ROHTAS)

Ranjit Kumar Singh, S/o Shri Sudarshan Singh, Resident of Village -Paruhar, P.S.
Darihat, District- Rohtas.

.... Petitioner

Versus

1. The State of Bihar.
2. Bihar State Food and Civil Supplies Corporation through the District Manager,
Rohtas at Sasaram.

.... Opposite Parties

Appearance :

For the Petitioner/s : Mr. Sanjay Parasmani, Advocate

For the Opposite Party/s : Mr. Ajit Kumar, APP

For the State Food Corporation: Mr. Shailendra Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 21-09-2015

By the present application under Section 482 of the Code of Criminal Procedure (For short 'Cr. P.C.'), the petitioner, Ranjeet Kumar Singh, has assailed the conditions imposed in the order dated 27.06.2015 passed by the learned 1st Additional Sessions Judge, Rohtas at Sasaram in Anticipatory Bail Petition No. 1020 of 2015 arising out of Darihat P.S. Case No. 27/2015 registered under Section 420 and 409 of the Indian Penal Code whereby the petitioner has been granted anticipatory bail.



2. The prosecution case, according to one Dinesh Prasad Singh, District Manager, Bihar State Food and Civil Supplies Corporation (For short 'the SFC') is that the petitioner is the proprietor of M/s Maa Mini Rice Mill, Paruhar, Darihat. He was handed over altogether 2900 quintal of paddy for milling by the SFC. It has been stated that as per the policy decision of the Central Government, the petitioner had to deposit 67 per cent of custom milled rice (For short 'CMS') totalling to 1943 quintals of rice by 31.12.2013 to the SFC, but he deposited only 270 quintals of CMR. It has been further stated that the petitioner misappropriated Rs.36,22,981/- and odd towards 1673 quintals of CMR. He did not deposit the entire CMR despite repeated directions issued in this regard and created hindrance in the welfare scheme of the State Government and Central Government meant for the persons below the poverty line.

3. On receipt of the aforesaid written report submitted by the informant, the Officer-in-charge, Darihat Police Station instituted Darihat P.S. Case No. 27/2015 on 5th April, 2015 under Section 420 and 409 of the Indian Penal Code.

4. Apprehending his arrest in the aforesaid case, the petitioner filed an application under Section 438 of the Cr. P.C. before the learned Sessions Judge, Rohtas at Sasaram vide



Anticipatory Bail Petition No.1020 of 2015. The said anticipatory bail application was allowed by the learned 1st Additional Sessions Judge, Rohtas vide order dated 27th June, 2015 with certain conditions. One of the conditions on which the prayer for bail of the petitioner was allowed was that the petitioner had to deposit Rs. 18,10,000/- through demand draft within one month from the date of order and the rest amount was to be deposited in five equated quarterly installments.

5. Mr. Sanjay Parasmani, learned counsel for the petitioner submits that the conditions imposed by the learned Additional Sessions Judge-1st, Rohtas at Sasaram while granting anticipatory bail to the petitioner are not only onerous, but also unreasonable. It amounts to putting fetter on the order of anticipatory bail as the petitioner is unable to satisfy the conditions which are beyond his means and power.

6. It has been further contended that the petitioner never volunteered to pay the disputed amount in question in the manner indicated in the impugned order. According to him, the learned Additional Sessions Judge while dealing with the application for anticipatory bail has no jurisdiction to impose such condition.

7. In support of his submission, learned counsel for

the petitioner has placed reliance on the following unreported judgments of this Court:- (i) Rajesh Biyani vs. The State of Bihar & Ors. (Criminal Miscellaneous No. 28161 of 2015); and (ii) Md. Amarul Haque vs. State of Bihar (Criminal Miscellaneous No. 13464 of 2015).

8. Mr. Shailendra Kumar Singh, learned counsel for the SFC submitted that the aforesaid pre-conditions put by the Court for grant of anticipatory bail to the petitioner were called for and justified in the facts and circumstances of the case. He has submitted that the petitioner failed to deliver the entire quantity of rice at the godown of the SFC. He has submitted that in view of the nature of allegation the learned court below has rightly imposed the conditions for grant of anticipatory bail. According to him, as per terms of the agreement the petitioner was required to deliver proportionate rice i.e. 67% of paddy received by him under the agreement. However, he failed to do so and thus in order to save the interest of the State the court has directed the petitioner to deposit the defalcated amount in installment.

9. Learned APP for the State has adopted the submission made by the learned counsel for the SFC.

10. I have heard respective counsel for the parties and perused the materials available on record. I have also perused the



judgments passed in case of **Rajesh Biyani** (supra) and **Md. Amarul Haque** (supra). It would be evident from perusal of the aforesaid judgments that under similar circumstances after taking into consideration the ratio laid down by the Supreme Court in cases of **Gurbaksh Singh Sibbia etc. Vs. State of Punjab [(1980) 2 SCC 565]**; **Sandeep Jain Vs. National Capital Territory of Delhi [(2000) 2 SCC 66]**; **Sheikh Ayub Vs. State of M.P. [(2004) 13 SCC 457]**; **U. Palaniappan & Another Vs. Sub-Inspector of Police [(2005) 10 SCC 464]**; **Ramathal & Others Vs. Inspector of Police and Another [(2009) 12 SCC 721]**; **Amarjeet Singh Vs. State of NCT of Delhi [(2009) 13 SCC 769]** and **Sumit Mehta Vs. State (NCT of Delhi) [(2013) 15 SCC 570]**, this Court has held that onerous conditions cannot be imposed by the Court for grant of anticipatory bail.

11. Regard being had to the facts and circumstances of the case and the reasons assigned by this Court in **Rajesh Biyani** (supra) and **Md. Amarul Haque** (supra), the conditions imposed by the learned 1st Additional Sessions Judge, Rohtas at Sasaram for grant of anticipatory bail to the petitioner vide impugned order dated 27.06.2015 cannot be sustained. The learned 1st Additional Sessions Judge should have considered the entire facts of the case including the nature of the offence alleged and in the light thereof,

should have considered the prayer for grant of anticipatory bail. I accordingly, set aside the impugned order dated 27.06.2015 passed in Anticipatory Bail Petition No.1020 of 2015 arising out of Darihat P.S. Case No. 27 of 2015 and remit back the matter to the learned 1st Additional Sessions Judge, Rohtas at Sasaram to consider the prayer for anticipatory bail of the petitioner afresh in accordance with law taking into consideration the facts and circumstances of the case including the nature of the offence alleged. The learned 1st Additional Session Judge, Rohtas at Sasaram is requested to dispose of the aforesaid Anticipatory Bail Petition No. 1020 of 2015, giving reason for its decision as expeditiously as possible, preferably within a period of three week from the date of receipt/communication of the order.

12. The application is, accordingly, disposed of.

(Ashwani Kumar Singh, J.)

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