

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38533 of 2015

Arising Out of PS.Case No. -378 Year- 2015 Thana -SASARAM NAGAR District- SASARAM
(ROHTAS)

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Sambhu Kumar Son of Sheo Narain Sah Proprietor of Maa Mundeshwari
Mini Rice Mills, Tasi Resident of Village – Takia, P.S. Sasaram Model,
District – Rohtas

.... Petitioner/s

Versus

1. The State of Bihar
2. Bihar State Food & Civil Supplies Corporation Ltd.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Jai Narain Thakur

For the Opposite Party/s : Mr. Rajendra Singh Shastri(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 24-09-2015

Heard learned counsels for the petitioner

and the State.

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

The prosecution case is that Rohtas unit of Bihar State Food and Civil Supplies Corporation supplied 2596.97 quintals of paddy to the petitioner being rice miller under an agreement during the procurement years 2011-12 and in lieu thereof the petitioner was supposed to supply 1739.97 quintals of custom milled rice. The petitioner supplied only 268.42 quintals of custom milled rice and failed to supply

1471.55 quintals of custom milled rice worth Rs.28,00,550.95/-.

It is submitted by learned counsel for the petitioner that the rice could not be supplied due to apathetic attitude of the officials of The Bihar State Food and Civil Supplies Corporation 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 and Certificate Case No. 18/13-14 has already been initiated.

It is submitted by learned counsel for the BSFC that the petitioner failed to make supply within time frame i.e. 30.04.2013 and the BSFC under the terms of agreement was authorized to initiate legal proceeding for recovery of the alleged due amount.

However, it is submitted by learned counsel for the petitioner that the petitioner will deposit 20% of the alleged due amount of Rs.28,00,550.95/- through bank draft in favour of The State Food and Civil Supplies Corporation within six months in six equal monthly installments. Though, statement to that effect has not been made in the petition.

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

provisional anticipatory bail for seven months in the event of his arrest or surrender before the learned court below within a period of twelve weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Rohtas at Sasaram in connection with Sasaram (Model) P.S. Case No. 378 of 2015, subject to the conditions as laid down under Section 438(2) of the 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 of Rs.28,00,550.95/- through bank draft within six months in six monthly equal installments in favour of The Bihar State Food and Civil Supplies Corporation, Patna.

(Dinesh Kumar Singh, J)

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