

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.42403 of 2015

Arising Out of PS.Case No. -72 Year- 2015 Thana -ROSERA District- SAMASTIPUR

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Umesh Prasad @ Umesh Kumar Son of Jogindra Bhagat, resident of
Mohalla- Chechar, P.S.- Bidupur, District- Vaishali

.... Petitioner

Versus

1. The State of Bihar
2. The District Manager, BSFC, Samastipur

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Vijay Anand, Adv.

For the Opposite Party/s : Mr. Nitya Nand Tiwary (App)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA

ORAL ORDER

6 17-12-2015 Heard both sides.

The petitioner apprehends his arrest in Rosera P.S.
Case No. 72/2015, registered for the offences punishable under
Sections 409 and other Sections of the Indian Penal Code.

The petitioner was Incharge Purchase Centre, Rosera.
The petitioner purchased 13499.50 quintals of wheat, but he
supplied only 12167.98 quintals of wheat to the base godown of
the Corporation situated in Warisnagar. The petitioner is alleged to
have misappropriated 1331.52 quintals of wheat. The petitioner
was also show-caused vide letter no. 403 dated 16.02.2013, the
price of misappropriated wheat comes to Rs. 18,98,800.78.

Learned counsel for the petitioner submits that the
informant gave show-cause vide letter no. 403 dated 16.02.2013



Annexure-4, in which the District Manager, State Food Corporation has stated that 79.152 MT wheat was not available. The petitioner gave his reply to the show-cause stating that only 473.54 quintal wheat was not available and the petitioner deposited Rs. 6.25 lacs in the account of the BSFC, but in the FIR, the informant alleged that 1331.52 quintal of wheat was misappropriated.

It is submitted that the petitioner also filed his reply on 20.04.2015 to the show-cause served on him by letter no. 403 dated 16.02.2013 and he has reiterated the same facts that he has already supplied 13025.96 quintals of wheat out of 13499.50 quintal of purchased wheat. Admittedly, this FIR is filed on 27th March, 2015 after more than two years from the date of issuance of show-cause for shortage of wheat at Purchase Centre. The District Manager did not at all take into consideration the show-cause filed by the petitioner on 26.02.2013. The petitioner deposited Rs. 6,25,000/- in the account of the SFC, but for the reasons best known to the District Manager without giving him any further show-cause on the basis of the accounting of lifting of wheat from the Purchase Centre, lodged this case. There is no explanation offered by the District Manager that the petitioner was issued show-cause on 16.02.2013, but the petitioner also replied to



the show-cause on 26.02.2013. The District Manager, SFC, Samastipur did not take any action nor ask the petitioner that the accounting of the petitioner with regard to lifting of wheat is wrong and lodged the case after two years. This fact itself shows that without the tacit support of the District Manager, SFC, no such misappropriation or defalcation could have happened. The District Manager on the facts prima facie appears to be negligent and responsible of such misappropriation of huge amount of food-grains.

It is further submitted that the petitioner although admitted the shortage of only 473.54 quintals of wheat, but he is ready to deposit the price of remaining 318 quintal of wheat and Rs. 50,000/- lying due from earlier within two months from the date of this order.

However, Mr. Shailendra Singh, learned counsel for the SFC has submitted that on account of fault in accounting, the District Manager issued Annexure-4 showing the shortage of 79.152 quintal of wheat. In fact, 1331.52 quintals of wheat is found shortage in the Purchase Centre of the petitioner. If the petitioner shall give his accounting before the District Manager, SFC within three months and if it is found that there is accounting error, then the petitioner shall deposit the cost of remaining

amount within six months thereafter.

Considering the facts aforesaid, the petitioner above named in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, is directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, Rosera in connection with Rosera P.S. Case No. 72/2015, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

If the petitioner fails to deposit the price of 318 quintal plus Rs. 50,000/-, which is lying due from earlier, within two months, the court below shall cancel the bail bond of the petitioner.

(Prabhat Kumar Jha, J.)

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