

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.20195 of 2016

Arising Out of PS.Case No. -15 Year- 2016 Thana -FESHAR District- AURANGABAD

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Sri Raju Gupta S/o Ashok Prasad @ Ashok Prasad Singh Proprietor of M/S
Gupta Rice Mill, R/o vill. Fesar, P.S.- Fesar, District- Aurangabad

.... Petitioner/s

Versus

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

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Singh

For the Opposite Party/s : Mr. Ajay Kr. Jha (App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 10-05-2016

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, 406 and 420 of the Indian Penal Code.

The prosecution case is that Aurangabad unit of Bihar State Food and Civil Supplies Corporation supplied 29508.97 quintals of paddy to the petitioner being rice miller under an agreement during the procurement years 2012-13 and in lieu thereof the petitioner was supposed to supply 19771.00 quintals of custom milled rice. The petitioner supplied only 11340.00 quintals of custom milled rice and failed to supply

8431.00 quintals of custom milled rice worth Rs.1,82,57,858/-.

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 the Certificate Case No. 01/14-15 has already been initiated. However, out of due amount of Rs.1,82,57,858 the petitioner has already deposited Rs.60,50,000/- prior to registration of the FIR. The petitioner is ready to deposit 20% of the remaining balance due amount of Rs.1,22,07,858/- within a period of eight months through bank draft in favour of The State Food and Civil Supplies Corporation within five months in five equal monthly installments. Though, statement to that effect has not been made in the petition.

Mr. Shailendra Kumar Singh learned counsel for the BSFC does not dispute the deposit of Rs.60,50,000/- but submits that the petitioner should deposit the entire due amount. Though, for the recovery of the due amount certificate proceeding has already been initiated.

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 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 Judicial Magistrate, Ist Class, Aurangabad in connection with Fesar P.S. Case No. 15 of 2016, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The provisional bail of the petitioner will be confirmed by the learned court below on submission of 20% of the due amount of Rs.1,22,07,858/-through bank draft within eight months in eight monthly equal installments in favour of The Bihar State Food and Civil Supplies Corporation, Patna.

The aforesaid deposit will not be treated as 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.

(Dinesh Kumar Singh, J)

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