

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25626 of 2016

Arising Out of PS.Case No. -25 Year- 2016 Thana -GAYGHAT District- MUZAFFARPUR

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Jagarnath Chaudhary, Son of Bindeshwar Chaudhary, resident of village Jarang Baluaha, P.S.- Gayaghat, District- Muzaffarpur, Proprietor of M/s J.N. Rice Mill, situated at village Jarang Baluaha, P.O.- Jarnag Deodhi, P.S.- Gayaghat, District- Muzaffarpur.

.... Petitioner.

Versus

1. The State of Bihar
2. The Bihar State Food and Civil Supplied Corporation Ltd. District Office- Muzaffarpur, District- Muzaffarpur.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Y. V. Giri, Sr. Advocate
Mr. Ravinesh, Advocate

For the Opposite Party/s : Mr. A. Dayal (APP)

For the BSFC : Mrs. Adity Prakash Sahay, Advocate

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL ORDER

2 04-07-2016 Heard learned counsel for the petitioner and the opposite parties.

The petitioner apprehends his arrest in Gaighat P.S. case no. 25 of 2016, dated 12.02.2016, for the offence under Sections 409 and 420 of the Indian Penal Code.

As per the prosecution case, the petitioner entered into an agreement, dated 19.02.2013 with the District Manager, Bihar State Food & Civil Supplies Corporation (hereinafter referred to as 'the BSFC'), Muzaffarpur in a prescribed format. As per the agreement, the petitioner was to lift paddy from different Paddy Purchase Centre (PPC) of Muzaffarpur district and after



milling, was required to deliver 67% Custom Milled Rice (CMR) or raw rice by 13.12.2013. The petitioner is alleged to have lifted 23816.19 quintal of paddy and as per the agreement he was to deliver 67% of the CMR, which worked out to 15956 quintals by 31.12.2013. However, the petitioner supplied only 5670 quintals CMR. The Mill Proprietor (petitioner) even ignored a reminder and made no further supply of CMR to the Corporation, causing revenue loss to the tune of Rs.2,22,76,790.89. The petitioner between April to July 2015, only paid Rs.5,50,000/- to the Corporation against outstanding dues of Rs.2,00,00,000/- and odd.

The petitioner disputes the very figure of paddy lifted by him as claimed by Corporation. He requested the Corporation vide letter, dated 19.05.2014 to correct the figure of paddy procured by him from different procurement centres for the purposes of converting it into CMR. The petitioner insisted on the BSFC to produce the relevant papers in support of its claim that he lifted 23816.19 quintals of paddy. Before the learned Sessions Court also, the BSFC could only produce the receipt/record with respect to supply of 3000 quintal of paddy. He submits that as per agreement, BSFC ought to have taken steps to settle the dispute as petitioner had expressed his willingness to settle it by sitting across the table. As per Clause 16 of the agreement, the matter

was to be further referred to District Magistrate of the district for arbitration, in case of disagreement.

Learned counsel submits that he has already made a request to the Managing Director of the Corporation as well as to the Collector of the district for settlement/arbitration.

He submits that in more or less in identical matter, a Bench of this Court granted anticipatory bail to the Rice Millers vide order dated 24.06.2016, passed in Cr. Misc. No. 19331 of 2016, to resolve the dispute with the Managing Director by sitting across the table. The learned Judge further observed that if after settlement of the dispute any amount is found due and if the petitioner fails to deposit the same without assigning any reason, the bail bonds would be liable to be cancelled without being prejudiced by the order.

The State has opposed the prayer for bail. Learned counsel for the State submits that a Bench of this Court vide order, dated 04.05.2016, passed in Cr. Misc. No. 9476 of 2016, has rejected the anticipatory bail application of another similarly situated miller.

The allegations in the F.I.R. also fasten criminal liability. In case, the allegation is found to be true, the misappropriation would be to the tune of Rs. 2 crores and odd.



The petitioner has disputed the quantity of paddy actually made over to him. At this stage, it is difficult for the Court to come to a definite conclusion that the petitioner, in fact, received much less than 23816.19 quintal of paddy. In such circumstances, I would only be inclined to confer the privilege of anticipatory bail, if the petitioner deposits a sum of Rs.40,00,000/- (forty lacs) within a period of ten weeks from today. The first installment of Rs. 20,00,000/- (twenty lacs) should be deposited within six weeks from today and the second installment of Rs. 20,00,000/- should be also deposited within a further period of four weeks.

In case the petitioner, namely, Jagarnath Chaudhary, deposits the first installment of Rs.20,00,000/- (Twenty lacs) within a period of six weeks from today, he would be released on anticipatory bail, in the event of his arrest/surrender, on furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of Sri Suvash Kumar Roy, Judicial Magistrate, 1st Class, Muzaffarpur in connection with Gaighat P.S. case no. 25 of 2016 with the condition as laid down under Section 438 (2) of the Cr.P.C.

The petitioner must deposit the second installment of Rs.20,00,000/- (twenty lacs) within next four weeks from the

deposit of the first installment, failing which the Court, in seisin of the case, would take steps for cancellation of bail bonds of the petitioner.

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(Samarendra Pratap Singh, J.)