

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.29451 of 2016

Arising Out of PS.Case No. -91 Year- 2015 Thana -DUMRA District- SITAMARHI

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1. Rajiv Rai @ Rajiv Kumar, son of Ram Vichar Rai, resident of Village Arjunpur, P.S. Buxar Industrial, District Buxar, proprietor M/s Maa Durga Enterprise, Buxar.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Bihar State Food and Civil Supplies Corporation Limited, Distt Manager, BSFC, Ltd., Sitamarhi.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Surendra Kumar Singh
For the Opposite Party/s : Mr. Sri Humayou Ahmad Khan

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

5 06-10-2016 After hearing both parties I.A. No. 1930 of 2016 is allowed. The order dated 16.09.2016 is recalled. I.A. No. 1930 of 2016 is disposed of.

Heard the learned counsel for the petitioner and the Mr. Shailendra Kr. Singh for the opposite party No.2

The petitioner seeks anticipatory bail in connection with Dumra P.S. case no. 91 of 2015, registered under Sections 406, 409, 420 and 34 of the IPC.

The First Information Report was lodged by the District Manager of the Corporation alleging that the petitioner after entering into the agreement with the Corporation for supply



of custom milled rice (CMR) was provided during the year 2011-12 15784.40 quintals of paddy. Petitioner was required to deposit 10575.59 quintals of CMR to the Food Corporation of India. Even after expiry of the period for such deposit the petitioner defaulted in depositing the entire quantity of CMR inasmuch as only 4590 quintals of CMR was deposited. 5985.59 quintals of CMR was not deposited in spite of the reminders. It is alleged that the petitioner defaulted/embezzled 5985.59 quintals of rice quantified at Rs. 1,13,97,246.29/-.

Submission of the petitioner is that under the agreement the petitioner was required to be compensated for the transportation of the CMR which has not been done. Even according to the agreement, realization of the dues is to be made through the proceedings under the Public Demand Recovery Act. To secure the privilege of anticipatory bail, the petitioner is ready and willing to deposit certain percentage of the alleged embezzled amount as a condition of bail. It is stated that several other accused persons having identical allegations /charge have been granted such privilege on condition.

Mr. Singh, however, opposed the application contending that in spite of the notice the petitioner has defaulted in paying off the dues of the Corporation which runs into crore.

He has, however not disputed the fact that some of the accused persons having identical allegations have been privileged with anticipatory bail with condition.

Considering the facts and circumstances of the case as also the stand of the petitioner, this Court is inclined to direct the Court below, upon arrest or surrender within a period of 05 weeks from today, to release the petitioner provisionally on bail for a period of five months therefrom on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned C.J.M. Sitamarhi in connection with Dumra P.S. case no. 91 of 2015, subject to the following conditions condition:

- (i) Along with bail bonds, the petitioner shall produce receipt/proof showing deposit of 15% of the defalcated amount as depicted in the FIR with the Bihar State Food and Civil Supplies Corporation. Before expiry of the said period of provisional bail, the petitioner shall appear before the Court and present receipt/proof of having deposited another instalment in the shape of 15% of the defalcated amount as depicted in the FIR and pray before the Court

for confirmation of bail. If the 2nd instalment of 15% of the defalcated amount is deposited and receipt is produced before the Court in seisin of the matter the provision bail of the petitioner shall be confirmed.

- (ii) One of the bailors shall be the own/close family member of the petitioner.
- (iii) As soon as the charges are framed the petitioner shall appear in person before the trial court on the date(s) fixed at the trial. In case of default in such appearance on two consecutive dates, the trial Court shall have liberty to cancel the bail bonds of the petitioner and secure his arrest in accordance with law.

It is clarified that the aforesaid deposit(s) shall be without prejudice to his right and contention in the case or any other proceeding .

(Kishore Kumar Mandal, J)

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