

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.29473 of 2016

Arising Out of PS.Case No. -83 Year- 2016 Thana -PURNEA SADAR District- PURNIA

Jitendra Kumar Thakur, Son of Sri Ramanand Thakur, Resident of Chandan Nagar Chowk, P.S.- Sadar, District- Purnea, Proprietor of M/S Thakur Rice Mill, Purnea.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Manager, Bihar State Food and Civil Supplies Corporation Ltd., Purnea.

.... Opposite Party/s

Appearance:

For the Petitioner/s	:	Mr. Shashi Bhushan Kumar
For the BSFC		Mr. Niraj Kumar
For the State		Mr. Gopesh Kumar

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

3 07-09-2016 Heard Mr. S. B. Kumar for the petitioner and Mr. Niraj Kumar for the Corporation.

The petitioner apprehends his arrest in Purnea Sadar P.S. Case No. 83 of 2016 registered under sections 406,409 & 420 IPC. The petitioner is the rice miller. Under an agreement, he was provided 2874.50 quintals of paddy for preparing Custom Milled Rice (CMR). He was required to deposit in the godown of the FCI 1925.92 quintals of CMR. After several notice, the petitioner deposited 1350 quintals of CMR. 575.92 quintals of CMR was, however, not deposited even after notice. The total cost of CMR not supplied is quantified at Rs. 12, 47000/- and

odd. However, on notice, the petitioner deposited Rs. 3, 25,000/-.

It is alleged that Rs. 9, 22,178/- remained outstanding with the petitioner which is alleged to have been defalcated.

Learned counsel for the petitioner submits that under the agreement the price of the milling was also to be charged and adjusted. Transportation cost of the rice was also to be adjusted. In the case at hand, the same has not been done and the quantification of loss has been wrongly made. Referring to Annexure-7 series, it is stated that it has wrongly been alleged that only Rs. 3,25,000/- was deposited by the petitioner. In fact, Rs. 3,75,000/ was paid to the Corporation on notice. The petitioner would be willing to deposit certain percentage of the defalcated amount without prejudice to his right and contention for obtaining the privilege of anticipatory bail. On this condition, it is submitted, few other accused persons have been released on anticipatory bail.

Learned counsel for the Corporation submits that the petitioner is squarely at fault in not providing the required quantity of CMR. He has, however, not disputed the receipt of the payment made on behalf of the petitioner to the Corporation. It is also not disputed that some other accuseds carrying identical allegation have been released on anticipatory bail on condition.

In the facts and circumstances of the case, I direct that in the event of arrest/surrender within four weeks from today, the petitioner above named shall be released on provisional bail for a period of 04 months on furnishing bail bonds of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Purnea in Purnea Sadar P.S. Case No. 83 of 2016. The petitioner shall produce the receipt of payment of 15% of Rs. 9, 22,178/- minus 3, 75,000/- = 5,47,178/- in favour of the Corporation or in the office of the District Manager of the Corporation along with the bail bond(s). Before expiry of the period of provisional bail, the petitioner shall approach the learned trial court and produce payment of another 10% of the said amount in favour of the Corporation or the informant whereafter his bail shall be confirmed. Be it noted the payments so made by the petitioner shall be without prejudice to his right and contention in the case.

(Kishore Kumar Mandal, J)

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