

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.37535 of 2016

Arising Out of PS.Case No. -277 Year- 2016 Thana -BETTIAH TOWN District-
WESTCHAMPARAN(BETTIAH)

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Vidya Singh, Son of Sri Ram Chandra Praad, resident of Village-Baswaria,
Ward No. 29, Police Station-Bettiah (Town), District- West Champaran at
Bettiah, proprietor of M/s Ganpati Ram Rice Mill, Baswaria, Bettiah, Police
Station- Bettiah (Town), District- West Champaran at Bettiah

.... Petitioner/s

Versus

1. The State of Bihar
 2. The Bihar State Food & Civil Supplies Corporation, through District
Manager, West Champaran at Bettiah. Opposite Party/s
- =====

Appearance :

For the Petitioner/s : Mr. Amrendra Kumar, Advocate
For the BSFC : Mr. Vikash Kumar, Advocate
For the Opposite Party/s : Mr. Md. Fahimuddin, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER**

4 11-11-2016

The petitioner is an accused in Bettiah Town P.S.

Case No. 277 of 2016. It is alleged that he has misappropriated
paddy/CMR worth Rs. 34,52,246. He is owner of a rice mill run in
the name and style of M/s Ganpati Rice Mill, Baswaria, Bettiah.
Allegedly, paddy was supplied to him by the Bihar State Food and
Civil Supplies Corporation under an agreement that the petitioner
in turn will be supplying proportionate amount of CMR, which he
did not do. He is said to have, thus, misappropriated the entire
paddy/CMR.

The petitioner had filed an application for
anticipatory bail in the court of learned Sessions Judge, West
Champaran, Bettiah vide ABP No. 930 of 2016. The said



application was allowed by the learned Sessions Judge by an order dated 07.06.2016, subject to the condition that the petitioner shall be depositing 20 per cent of the amount recoverable from him within one month. The petitioner did not comply with the said order inasmuch as he did not deposit the amount as was directed by the court of learned Sessions Judge. He thereafter filed an application before learned Sessions Judge giving rise to Criminal Miscellaneous No. 77 of 2016 seeking modification of the aforementioned order dated 07.06.2016 passed in ABP No. 930 of 2016 whereby he was directed to deposit 20 per cent of recoverable amount. The said application has been rejected by learned Sessions Judge by an order dated 02.08.2016. Seeking quashing of the said order dated 02.08.2016; present application under Section 482 of the Code of Criminal Procedure has been filed before this Court.

I have heard learned counsel for the petitioner and learned counsel appearing on behalf of Bihar State Food and Civil Supply Corporation.

Learned counsel for the petitioner, taking a line of least resistance has submitted that the petitioner is willing to deposit the amount, which according to the BSFC, is recoverable from him, without prejudice to his rights and contentions before



any court or forum in this regard. Learned counsel for the petitioner has submitted that in view of the fact that the petitioner is willing to deposit the amount within a reasonable period as may be allowed by this Court, no purpose would be served if he is taken into custody. Particularly when there is no likelihood that the petitioner will flee from the course of investigation or trial.

Learned counsel appearing on behalf of the BSFC upon instruction from the Corporation has submitted that the petitioner had submitted certain bills before the Corporation for adjustment against the amount recoverable from him. According to him, tentatively the bills submitted by the petitioner amounting to Rs. 7,18,412/- have been adjusted. According to him, the said adjustment is not final settlement of the bills submitted by the petitioner as the bills submitted by him, contains certain discrepancies. After adjusting the said amount, learned counsel for the Corporation has submitted that a tentative amount of Rs. 27,33,834.62 is recoverable from the petitioner.

Learned counsel for the petitioner has submitted that if the petitioner is given the privilege of anticipatory bail, he shall deposit the entire amount of Rs. 27,33,834.62 within six months from today, in six monthly equal installments beginning from 3rd week of November, 2016. Rest of the amount shall be paid,

according to him in the third week of every successive month thereafter, till the entire amount is liquidated, within six months.

Considering the fair stand taken on behalf of the petitioner, this application is allowed. The order to secure ends of justice, the order dated 07.06.2016 passed by learned Sessions Judge, West Champaran at Bettiah in Criminal Miscellaneous No. 77 of 2016 is quashed.

Let the petitioner, above-named, in the event of his arrest or surrender before the court below within four weeks from today, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Bettiah in connection with Bettiah (Town) P.S. Case No. 277 of 2016, subject to the conditions as laid down under Section 438 (2) of the Code of Criminal Procedure.

This is subject to the condition that the petitioner shall present himself before the police/Court, as the case may be, as and when required and in the event of failure on his part to appear before the Court on two consecutive occasions, his bail bonds shall be liable to be cancelled.

It is made clear that any observation made in this order shall not be treated to be any expression on the merit of the

case and as has already been indicated in the present order, calculation as suggested by the Corporation of the amount recoverable from the petitioner is only tentative in nature.

(Chakradhari Sharan Singh, J)

Vats/-c

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