

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.2632 of 2016**

Arising Out of PS.Case No. -305 Year- 2015 Thana -BUXAR MUFFSIL District- BUXAR

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1. Mohan Kumar @ Mohan Kumar Kalwar son of Late Bhagwan Sah,  
resident of Village- Gopal Nagar Chakiya, P.S.- Buxar (M), District- Buxar.

.... .... Petitioner/s

Versus

1. The State of Bihar  
2. Uday Pratap Singh, son of Late Haribansh Singh, resident of Village-  
Lakhanpur, P.S.- Poonpur, District Patna, District Manager, Bihar State  
Food Corporation, Buxar.

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Ashok Kumar Mishra

For the Opposite Party/s : Mr. S.M.Rahman(App)

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR  
SINGH**

ORAL ORDER

2      18-01-2016                      Heard learned counsels for the petitioner and the State.

The petitioner being a rice miller is apprehending arrest  
in a case registered for the offences punishable under Sections 406  
and 420 of the Indian Penal Code.

The prosecution case is that Buxar unit of Bihar State  
Food and Civil Supplies Corporation Ltd. supplied 5000 quintals  
of paddy to the petitioner being rice miller under an agreement  
during the agricultural years 2011-12 in lieu thereof the petitioner  
was supposed to supply 3350 quintals of custom milled rice. The  
petitioner supplied only 2701.30 quintals of processed rice but  
failed to supply 648.69 quintals of processed rice worth

Rs.12,34,536.00/-. Subsequently, the petitioner deposited Rs.3,50,000/- and hence the due amount remains Rs.8,84,536/-.

It is submitted by the learned counsel for the petitioner that the rice could not be supplied due to supply of poor quality of paddy and the apathetic attitude of the officials of The Bihar State Food and Civil Supplies Corporation Ltd. Moreover, 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 though the certificate case has been quashed.

It is submitted by learned counsel for the BSFC that the petitioner failed to make supply within time frame i.e. 31.12.2012 and appeal is pending against the order of the quashing of certificate proceeding.

However, it is submitted by learned counsel for the petitioner that the petitioner will deposit 20% of the alleged due amount to the tune of Rs.8,84,536/- through bank draft in favour of Bihar State Food and Civil Supplies Corporation Ltd. in five equal monthly installments within four months though statement to that effect has not been made in the petition.

Considering the present stand of the petitioner, let the above named petitioner be released on provisional anticipatory

bail for five months in the event of arrest or surrender before the learned Court below within a period of six weeks from today on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned ACJM III, Buxar in connection with Buxar(M) P.S. Case No. 305 of 2015 subject to the conditions as laid down under Section 438(2) Cr.P.C.

The aforesaid deposit will not be treated to be an admission of the petitioner with regard to the claim of the informant but the same will be subject to the any legal proceeding initiated or pending.

The provisional bail of the petitioner will be confirmed by the learned court below on submission of 20% of the due amount through bank draft within four months in four equal monthly installments in favour of Bihar State Food and Civil Supplies, Corporation Ltd., Patna.

**(Dinesh Kumar Singh, J)**

Anil/-

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