

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.5357 of 2016

Arising Out of PS.Case No. -94 Year- 2015 Thana -ITADHI District- BUXAR

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1. Krishna Kant Singh, son of Late Devan Singh, resident of Village-
Pakadi, P.S.- Itarhi, District- Buxar, Proprietor M/s Bajranj Udyog, Pakadi
Mor, Itarhi, District- Buxar.

.... Petitioner/s

Versus

1. The State of Bihar
2. Bihar State Food Corporation, Buxar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Fakhruddin Ali Ahmad

For the Opposite Party/s : Mr. Manoj Kumar(App)

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

2 03-03-2016

Heard learned counsel for the petitioner, learned

A.P.P. for the State along with learned counsel for Opposite

Party No.2, Bihar State Food and Supply Corporation, Buxar.

The petitioner apprehends his arrest in connection
with Itahri P. S. Case No. 94/2015 registered for offences
punishable under Sections 403, 406, 420, 421 and 424 of the
Indian Penal Code.

The prosecution case as lodged on the basis of a
written report of the District Manager, F.C.I., Buxar is that in the
relevant year 2011-2012, the petitioner was given 31,744.92
quintal of paddy for dehusking and milling of rice by an
agreement. It was stated that 67% i.e. 21,269.10 quintals of

C.M.R. price was to be lifted by the F.C.I. Buxar but only 9067.93 quintals C.M.R. rice was made available and rest amount of dehusked rice amounting to Rs. 2,32,20,413/- has not been given by the petitioner and according petitioner is alleged to have embezzled Rs.2,32,20, 413/-

It has further been submitted that the matter is civil dispute arising out of an agreement between the parties and does not amount to any embezzlement or overt act. It has further been submitted that in large number of similar cases, this Court has granted privilege of bail to mill owners and persons, who was similarly situated. A reference has been made to Annexure-3 of the supplementary affidavit showing the letter No. 9624 dated 07.12.2011 that the F.C.I. authorities have to lift the dehusked rice as per clause-6 of the said letter, which the petitioner stated that the F.C.I. Authorities did not lift.

It is further submitted that in similar circumstance, large number of persons and mill owners have since been granted the privilege of bail and in any case, it could have been a breach of agreement of the supply of C.M.R. rice and do not constitute any criminal offence.

In this connection, the learned counsel for the petitioner has annexed Annexure 10 series enclosing various

orders passed by this Court bearing, Cr. Misc. No. 4094/2013 and other cases.

However, learned counsel for the Opposite Party No. 2 submits that the petitioner had earlier moved for anticipatory bail before this Court in Cr. Misc. No. 23046/2015 which was dismissed as withdrawn on 01.09.2015 and as such, could not be permitted to prefer a second anticipatory bail petition. In this regard the learned counsel for the petitioner refers to the case of **Ravindra Saxena Vs. State of Bihar** since reported in **AIR 2010, S.C. - 1225** that anticipatory bail application can be granted at any time so long as the applicant has not been arrested in the said case. It was a third round of anticipatory bail application which was rejected by the concerned High Court. I find substance in the argument of the learned counsel for the petitioner and reject the contention of the Opposite Party No. 2.

It is further submitted by the learned counsel for the petitioner that the dispute in question is purely of a civil nature involving errors of calculation and accounting for which the informant has already filed a certificate case and this case has been lodged by the informant only with the intention to pressurize and harass the petitioner.

Be that as it may, let the above named petitioner, in the event of his arrest or surrender before the Court below within a

period of eight weeks from today be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten thousand) with two sureties of like amount each to the satisfaction of learned Chief Judicial Magistrate, Buxar in connection with Itahri P.S.Case No. 94/2015, subject to the conditions as laid down under Section 438(2) of the Cr. P. C.

The learned counsel for the petitioner shall approach the Managing Director of the Bihar State Food and Civil Supplies Corporation, Bihar, Patna within one month from today with all the relevant documents to reconcile the amount which will be examined and if any dues is outstanding the same shall be paid as per the schedule of payment fixed by the Managing Director, Bihar State Food and Civil Supplies Corporation, Bihar, Patna. Failure to appear before the Managing Director of the Corporation will entail cancellation of bail bonds of the petitioner by the concerned Court.

(Nilu Agrawal, J)

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