

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.22715 of 2016

Arising Out of PS.Case No. -19 Year- 2016 Thana -BOCHAHAN District- MUZAFFARPUR

Bhola Prasad Chaudhary

.... Petitioner/s

Versus

State of Bihar & Anr

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anil Kumar

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

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

3 26-07-2016

Heard both sides.

The petitioner apprehends his arrest in Bochahan P.S. case No. 19 of 2016 under Section 409/34 of the Indian Penal Code.

The petitioner is the proprietor of M/s Kamakhya Rice Mill. The petitioner lifted 46,536.20 quintals of paddy but he delivered only 22410.00 quintals of CMR instead of 31,176.26 quintals and he misappropriated 8769.26 quintals of rice, price of which comes to Rs. 1,89,90,445.31.

The learned counsel for the petitioner submits that there was agreement between the BSFC and miller according to which the BSFC has to lift the rice from the rice mill after milling but no conveyance was provided to the miler for transportation of the rice to the BSFC godown. It is further submitted that there is

arbitration clause and some of the millers has filed L.P.A. No. 1391 of 2014 in which order was passed and, accordingly, the BSFC issued notice for selling rice and petitioner also sold the entire rice but did not deposit the money in the BSFC.

Admittedly, the petitioner sold the entire 8769.26 quintals of rice but did not deposit even a single farthing in the BSFC.

It is submitted that petitioner is ready to deposit the 20% of the aforesaid amount within two months.

The learned counsel for the BSFC submits that petitioner lifted the paddy in the year 2012-13 and since then the rice lying due against the petitioner. He submits that he has no knowledge about the pendency of certificate proceeding.

Considering the facts aforesaid and the fact that petitioner is ready to deposit 20% of Rs. 1,89,90445.31/- within two months, the above named petitioner, in the event of his arrest or surrender before the learned court below within a period of two months from the date of receipt / production of a copy of this order, is directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate-XI, Muzaffarpur in Bochahan P.S. Case No. 19 of

2016, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

If the petitioner fails to deposit 20% of the aforesaid amount within two months, the learned court below shall cancel the bail bonds of the petitioner.

(Prabhat Kumar Jha, J)

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