

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36517 of 2015

Arising Out of PS.Case No. -86 Year- 2015 Thana -SULTANGANJ District- BHAGALPUR

- =====
1. BAIDHNATH YADAV @ BAIJNATH YADAV son of Late Bhola Yadav, Ex President Mirhatti PAX Limited.
 2. Amar Kumar Yadav Son of Baidyanath Yadav, Ex Manager Mirhatti PAX Limited
Both resident of village & Post Mirhatti, Police Station Sultanganj, District Bhagalpur.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shyam Narayan Pandey
For BSFC : Mr. Shailendra Kumar Singh
For the Opposite Party/s : Mr. A.M.P.Mehta(App)

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

7 05-01-2016 Heard learned counsel for the petitioners and learned counsel appearing on behalf of Bihar State Food Corporation.

The petitioners are apprehending their arrest in connection with Sultanganj P.S. Case No. 86 of 2015 registered for offences punishable under Sections 409, 420 of the Indian Penal Code.

The petitioners being the Chairman and Secretary of the Mirhatti PAX Limited, Sultangaj, had taken an advance cash credit from Bhagalpur Central Co-operative Bank, Sultanganj of an amount of Rs. 20 lac. The allegation against the petitioners is that after receiving the aforementioned amount from the bank, they purchased paddy from the farmers to the tune of Rs. 19 lac



but failed to deposit the said amount with the State Food Corporation, Sultanganj. Further allegation is that since the aforementioned paddy was not deposited with the State Food Corporation despite repeated reminders, the petitioners were called upon to explain which they failed to do. It was under such circumstances, the Bhagalpur Central Co-operative Bank, Sultangaj, lodged the present F.I.R. stating that the accused persons had failed to comply with the terms and conditions of the agreement and had deceitfully and fraudulently obtained the said loan amount. The allegation was that till 31.03.2015, a sum of Rs. 19,06,513,.77 paise remained due with them including interest accumulating thereon. Learned counsel for the petitioners submits that the entire allegation against them is false and misconceived and that the petitioners had not embezzled the amount rather it was the Block Cooperative Extension Officer who had taken the paddy from the farmers but had failed to issue receipts for the same which led to the present confusion. He contended that as such since paddy had been purchased, there was no defalcation and only on account of non issuance of receipt by the In-charge Purchase Centre, the petitioners were facing present prosecution.

Learned counsel appearing on behalf of the State Food corporation submits that the contention of the petitioners is wholly



false and is aimed at putting the blame on official of State Food Corporation but the fact is that the procedure which was to be followed for making the purchase was not complied with and, therefore, such receipts could not have been issued to the petitioners for purchase of the paddy from the farmers. It was further submitted by the learned counsel appearing on behalf of the State Food Corporation that the paddy which was purchased from the farmers in the concerned block was in fact, sold out in open market and the same was never deposited with the State Food Corporation, which necessitated the present prosecution and the lodging of the F.I.R. by the Bhagalpur Central Co-operative Bank, Sultanganj Branch.

Having considered the rival submissions and also the materials available in the case diary, the petitioners are directed to deposit the 30% of the alleged defalcated amount as per the F.I.R., payable in favour of the Bhagalpur Central Co-operative Bank, Sultanganj Branch, within a period of six weeks from today. In case the said amount is deposited within aforementioned period, let the petitioners above named, in the event of their arrest or surrender before the court below within a period of three weeks from the date of receipt/production of a copy of this order, be released on bail on furnishing bond of Rs. 10,000 (Rs. Ten

Thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Bhagalpur in connection with Sultanganj P.S. Case No. 86 of 2015, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

It is made clear that the present order regarding pre arrest bail is made only subject to the condition that the petitioners shall deposit the aforementioned amount and not otherwise.

(Anjana Mishra, J)

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