

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.34393 of 2016

Arising Out of PS.Case No. -191 Year- 2016 Thana -BAGHA District-
WESTCHAMPARAN(BETTIAH)

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1. Vikash Kumar @ Vikas Son of Shri Rameshwar Prasad, Proprietor, M/s. Bikash Rice Mill, resident of Village Goriyapatti, P.S. Bagaha, District- West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Manager, Bihar State Food & Civil Supplies Corporation Limited, West Champaran, Bettiah.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Suraj Samdarshi
For the Opposite Party/s : Ms. Aishwarya Riti
Mr. Anil Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL ORDER

3 10-11-2016 Heard the Counsel for the petitioner, Ms. Aishwarya Riti for the Corporation and the APP for the State.

Petitioner is the Rice Miller and is apprehending his arrest in Bagaha P.S. Case No. 191 of 2016 registered under Section 409 of the Indian Penal Code.

Under agreement, 7256 quintals of paddy was supplied to the petitioner for customed rice milling and to deposit 4861.52 quintals of CMR. The petitioner after milling paddy deposited only 2698.64 quintals. The remaining 2162.88 quintals of CMR was not deposited. However, on notice, the petitioner further deposited Rs. 8,45,000/-. In this way, it is alleged that the petitioner misappropriated the government fund in the sum of Rs. 38,38,846.41.



Contention of the petitioner is that under the agreement, the realization, if any, could have been made through the process as provided in PDR Act which has already been lodged. The Corporation was also required to adjust the transportation fee. There was delay in transportation of the CMR which also occasioned the loss. The petitioner, in order to obtain the privilege of bail, would be willing to deposit certain percentage of the alleged defalcated amount as directed by the Court subject to result of the case. It is submitted that some other accused persons, identically charged, have been given the said privilege of anticipatory bail.

Counsel for the Corporation opposed the prayer and submits that the petitioner, in spite of notice and persuasion, did not deposit the entire money.

Having heard the parties, this Court disposes of the bail application by the following order:-

Let the petitioner, in the event of arrest or surrender in the Court below within four weeks, be released provisionally on bail for a period of five months therefrom on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of C.J.M., West Champaran, Bettiah in Bagaha P.S. Case No.191/2016 subject to the condition laid down under Section 438(2) Cr.P.C. with further condition that along

with the bail bond, the petitioner shall produce document/receipt showing deposit of 20 % of the alleged defalcated amount as reflected in the first information report with the informant/Corporation. Before expiry of the period of provisional bail, the petitioner shall appear before the Court and produce receipt/document of deposit of another installment of 10 % of the alleged defalcated amount as reflected in the F.I.R. whereafter only the learned Court below shall confirm the bail. Deposit so made by the petitioner with the Corporation shall be without prejudice to his right and contention in the case. The Court below shall confirm the bail on the following conditions:

(i) One of the bailers shall be the own/close family members of the petitioner.

(ii) In case of framing of charge, the petitioner shall appear in person on each and every date fixed in the Court below. In case of default in doing so on two consecutive occasions without any cogent/satisfactory reason, the Trial Court shall have liberty to cancel the bail bond of the petitioner and secure his arrest in accordance with law.

(Kishore Kumar Mandal, J)

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