

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.30959 of 2016

Arising Out of PS.Case No. -40 Year- 2016 Thana -SHEIKHOPUR SARAI District- SEKHPURA

Shree Krishna Kumar @ Krishana Kumar @ Kishan Kumar son of Late Harangi Singh, resident of village- Nimi, P.S. Shekhopur Sarai, District- Sheikhpura, Proprietor, M/s. Arena Agro Industries, Nimi, Shekhopur Sarai, District- Sheikhpura.

.... Petitioner/s

Versus

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

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Suraj Samdarshi, Advocate
For the Opposite Party No.2 : Mr. Aditya Prakash Sahai, Advocate
For the State : Mr. Shantanu Kumar, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 08-08-2016

Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for the Corporation.

2. The present application under Section 482 of the Code of Criminal Procedure has been filed for quashing of the order dated 2.6.2016 passed in A.B.P. No.239 of 2016 arising out of Shekhopur Sarai P.S. Case No.40 of 2016 dated 26.5.2016 registered under Sections 406, 409, 420 and 120B of the Indian Penal Code whereby for the purpose of grant of provisional anticipatory bail the learned District and Sessions Judge, Sheikhpura has directed the petitioner to deposit Rs. 60,35,712.48/- in instalments.

3. It is submitted by the learned counsel for the petitioner that the facts of the case are identical to that of the case of Rajesh Biyani, whose application was allowed by this Court vide order dated 14th July, 2015 passed in Cr. Misc. No.28161 of 2015, as contained in Annexure-8 to the present application.

4. It is submitted by learned counsel appearing for the Bihar State Food and Civil Supplies Corporation that condition for grant of provisional anticipatory bail to the petitioner was imposed by the learned Sessions Judge pursuant to the offer made by the petitioner that he is willing to pay the alleged defalcated amount in six instalments.

5. Be that as it may, the order dated 2.6.2016 passed in A.B.P. No.239 of 2016 by the learned District and Sessions Judge, Sheikhpura cannot be sustained in law for the reasons assigned in the decision of this Court in the matter of Rajesh Biyani (supra).

6. Accordingly, the impugned order dated 2.6.2016 passed by the learned District and Sessions Judge, Sheikhpura in A.B.P. No.239 of 2016, is set aside. The matter is remanded to the court below to hear the prayer for grant of anticipatory bail of the petitioner afresh on merits, in accordance with law, considering the facts and circumstances of the case including the nature of the offence alleged.

7. The court below is directed to dispose of the aforesaid

A.B.P. No.239 of 2016 expeditiously, preferably within a period of four weeks from the date of receipt/communication of this order. Since the petitioner is being represented through counsel no notice is required to be issued to him by the court.

8. It is made clear that this Court has not applied its mind on the merits of the case and it would be open to the learned District and Sessions Judge, Sheikhpura to pass such order/orders as he deems fit and proper in the facts and circumstances of the case after hearing the parties within the periods stipulated hereinabove.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	12.8.2016
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