

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.26390 of 2016

Arising Out of PS.Case No. -33 Year- 2016 Thana -GWALPARA District- MADHEPURA

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Rabindra Prasad Yadav @ Ravindra Prasad Yadav, Son of Sri Krit Narayan Yadav, resident of village- Arar, Police Station- Gwalpara, District- Madhepura.

.... Petitioner

Versus

1. The State of Bihar.
2. The Bihar State Food and Civil Supplies Corporation Ltd. through The Secretary, Govt. of Bihar.

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Shailendra Kumar Singh, Advocate
For the B.S.F.C. : Mr. Aditya Prakash Sahay, Advocate

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL ORDER

2 13-07-2016

Heard parties.

Petitioner apprehends his arrest in a case filed under Sections 409, 420, 120 (B) of the Indian Penal Code.

As per allegation made in the first information report, the petitioner defalcated 5978.31 quintal C.M.R. rice amounting to Rs.1,29,46,389/-, however, it is stated that though the petitioner has accepted the allegation but has only paid rupees three lacs.

It is submitted on behalf of the petitioner that the said amount was never accepted as the petitioner had invoked the arbitration clause of the agreement and matter was referred to the Arbitrator but unfortunately arbitral Award also went against the



petitioner which has been challenged in appeal. In the meantime, a certificate proceeding for recovery of the aforesaid amount has also been initiated by the Bihar State Food and Civil Supplies Corporation, though against the arbitral Award, appeal is still pending. It is further contended that warrant was issued in the aforesaid certificate case and objection was taken that such warrant was issued without disposing of the objection filed in the certificate case by the petitioner under Section 9 of the Bihar & Orissa Public Demands Recovery Act, 1914. In such a situation, vide Annexure 4 dated 24.04.2016, a Single Judge Bench of this Court had allowed two weeks time to the respondents to file counter affidavit. Further direction was given that no coercive step would be taken against the petitioner subject to deposit of rupees three lacs within two weeks which the petitioner claims to have paid. It is urged that few days thereafter, F.I.R. was lodged acknowledging such payment of rupees three lacs under the direction of this Court vide Annexure 4 in the first information report itself but suppressing as to why and under what circumstances such payment was made by the petitioner. It has been portrayed in the first information report as if the petitioner has accepted the amount which is being claimed by the Corporation and has paid in part but the fact is that the petitioner has filed objection against such demand which was not disposed

of by the certificate officer and without doing that warrant of arrest was issued in the aforesaid proceeding. It is submitted that all these facts have been suppressed in the first information report and it has been shown as if the petitioner after accepting the dues has only paid rupees three lacs. It is contended that even thereafter, vide order dated 12.05.2016 passed in the same writ petition, the interim relief granted by the earlier order was allowed to operate until further orders of the Writ Court but five days thereafter, the F.I.R. has been lodged on 17.05.2016.

Having regards to the facts and circumstances of the case, in the event of arrest/surrender within a period of six weeks from today in Gwalpara P.S. case no. 33 of 2016, the above named petitioner, Rabindra Prasad Yadav @ Ravindra Prasad Yadav shall be released on bail on furnishing bail bond of Rs.10,000(Ten Thousand Rupees) with two sureties of the like amount each to the satisfaction of Sri Ashok Kumar - II, Judicial Magistrate, 1st Class, Uda- Kishunganj, Madhepura subject to the conditions as laid down under sub-section(2) of Section 438 of the Code of Criminal Procedure.

Sanjay-II/-

(Dr. Ravi Ranjan, J)

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