

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.22463 of 2016

Arising Out of PS.Case No. -44 Year- 2016 Thana -MADANPURA District- AURANGABAD

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1. Badri Prasad Gupta son of Bigan Sao, Proprietor of M/s Om Sai Baba Shirdi Rice Mill, resident of village- Khirawan, P.S.- Madanpur, District- Aurangabad

.... Petitioner/s

Versus

1. The State of Bihar
2. The Bihar State Food and Civil Supplies Corporation, through its M.D., Bihar at Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sumeet Kumar Singh
For the Opposite Party/s : Mr. Anita Kumari (App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 19-05-2016 Heard learned counsels for the petitioner and the State.

Petitioner is apprehending his arrest in a case registered for the offences punishable under Sections 406, 409 and 420 of the Indian Penal Code.

The prosecution case is that the petitioner being rice miller was supplied 26920.39 quintals of paddy by the Aurangabad unit of The Bihar State Food & Civil Supplies Corporation Limited under agreement during the agriculture years 2012-13, in lieu thereof the petitioner was supposed to supply 18036.70 (67% of paddy supplied) quintals of Custom Milled Rice(CMR). The petitioner supplied only 5940 quintals and failed to supply 12096.70 quintals of Custom Milled Rice worth Rs. 2,61,96,046/-.



It is submitted by learned counsel for the petitioner that custom milled rice could not be supplied due to the latches on the part of the authorities of The Bihar State Food & Civil Supplies Corporation Limited. The agreement stipulates recovery of due amount through initiation of certification proceeding under Bihar & Orissa Public Demands Recovery Act, 1914. The certificate Case No. 8 of 2014-15 has already been initiated.

It is submitted by learned counsel for The Bihar State Food & Civil Supplies Corporation Limited that petitioner failed to supply the processed rice within stipulated time i.e. 31.12.2013 and under the terms of the agreement legal action was permissible and consequently the present F.I.R was registered.

However, learned counsel for the petitioner admits that petitioner is ready to deposit 20% of the alleged due amount of Rs. 2,61,96,046/- within a period of six months through bank draft in favour of The Bihar State Food & Civil Supplies Corporation Limited, Patna in six equal monthly installment. Though statement to that effect has not been made in the petition.

Considering the present stand of the petitioner, let the petitioner, above named, in the event of his arrest or surrender before the Court below within a period of 12 weeks from today, be released on provisional anticipatory bail

for seven months on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Aurangabad in connection with Madanpur P.S. Case No. 44 of 2016, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The provisional bail of the petitioner will be confirmed by learned Court below on deposit of 20% of the alleged due amount of Rs. 2,61,96,046/- through six monthly bank drafts in favour of The Bihar State Food & Civil Supplies Corporation Limited, Patna.

The aforesaid deposit will be subject to certificate proceeding but the same will not be treated as an admission of the petitioner against the claim of the informant.

(Dinesh Kumar Singh, J)

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