

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41800 of 2017

Arising Out of PS.Case No. -205 Year- 2015 Thana -BHABHUA District- BHABHUA (KAIMUR)

=====

1. Ganesh Sah Son of Late Jhuri Sah, Proprietor of Mohalla- Bhabhua, Ward No. 18, P.S.- Bhabhua, District- Kaimur at present at Village- Gobarachh, P.S.- Bhagwanpur, District- Kaimur (Bhabhua).

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Bihar State Food and Civil Supplies Corporation through the Assistant Manager, Gurua, District- Kaimur (Bhabhua).

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Sumeet Kumar Singh, Adv
For the BSFC : Mrt.Nirmal Kumar, Adv.
For the Opposite Party/s : Dr. Mayanand Jha, APP

=====

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

3 21-09-2017 Heard the parties.

This application is for grant of regular bail in connection with Bhabhua P.S.Case No.205 of 2015, for the offences under Sections 420 and 409 of the Indian Penal Code.

Allegation against the petitioner is of defalcation of amount for non-supply of CMR by the petitioner, who is a miller, to the tune of Rs.14,62,170/-.

Submission of the learned counsel for the petitioner is that he is ready to deposit the bank guarantee in the court below for grant of bail but there is direction of the Hon'ble Supreme Court for bank guarantee on the face value of the paddy and as



such he may be allowed to deposit bank guarantee on the face value of paddy. It has also been submitted that one matter is also pending in Cr. Misc. No. 28666 of 2017, in which this question is involved that whether the bank guarantee has to be paid on total paddy or on the basis of rice (i.e. C.M.R.) and further the petitioner has also deposited Rs.2,90,000/- as per direction of this Court in the learned trial court. The petitioner is in custody since 12.7.2017.

Heard learned A.P.P. as well as learned counsel for the B.S.F.C. They have submitted that the petitioner has to deposit bank guarantee of the total rice on the basis of paddy supplied to him i.e. (CMR) and if the petitioner is ready to submit bank guarantee on the basis of CMR, he has no objection. Further, it is submitted that so far amount of Rs.2,90,000/- deposited, they have no knowledge and if it is true that will be subject to verification by the learned trial court.

Having considered the matter, in view of submission of the learned counsel for the petitioner, if the petitioner is ready to deposit the bank guarantee to the tune of CMR, which is due to the petitioner on depositing bank guarantee and on verification of the same and being satisfied, the learned trial court will release the petitioner, above named, on bail on furnishing bail bond of



Rs.25,000/- (Twenty Five Thousand) with two sureties of the like amount each to its satisfaction i.e. J.M., Kaimur at Bhabhua in connection with Bhabhua P.S.Case No.205 of 2015.

With following conditions :

- (i) One of the bailors of the petitioner shall be a local person having sufficient immovable property within the jurisdiction of the concerned court.
- (ii) The petitioner will not induce any witness or tamper with the evidence.
- (iii) The petitioner shall co-operate in the disposal of trial and make himself available as and when required by the court and on the event of failure on his part to appear before the court below on two consecutive dates without showing any genuine reasons, the prosecution is free to move for cancellation of his bail bond.

With further conditions that

- (1) *The accused will cooperate with investigation/trial and their failure to appear, when required, will be a ground for cancellation of anticipatory bail/bail. An order of cancellation will be passed by the trial court on being satisfied about such failure.*
- (2) *The concerned authorities will be at liberty to encash the bank guarantee(s) after holding that there is a breach of terms of the agreement which decision will be subject to appropriate remedies of the parties.*
- (3) *If not otherwise encashed, the bank guarantee will be kept alive till the trial is over. However, deposits/furnishing of bank guarantees will be abide by further orders of the trial court, interim or final.*
- (4) *If any amount is deposited by the accused, the said amount will be adjusted in the amount of the bank guarantee, which is to be furnished by the accused.*
- (5) *The accused will surrender their passports to the respective courts within a period of four weeks from today and will not leave the country without prior*



permission from the concerned court.

It is needless to say, deposit of bank guarantee shall be subject to the result of the case as well as Cr. Misc. No.28666 of 2017.

With the above observation, this application is disposed of.

(Vinod Kumar Sinha, J)

chn/-

U		T	
---	--	---	--

