IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.49212 of 2017

Arising Out of PS.Case No. -233 Year- 2017 Thana -PIRBAHOR District- PATNA

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Rakesh Kumar Jain, son of Kanwari Lal Bagra, resident of 16/3/2 Round Tank Lane, Mallick Fhatak, P.S. Howrah, Kolkata-711101, Proprietor of Padma Logistics, a Proprietorship Firm, having its place of business at Degaraha Ghat, Shreepur, P.S. Baisi, District Purnea, Bihar.

.... Petitioner

Versus

1. The State of Bihar
2. Sri Sanjay Kumar, the Assistant Commissioner of Commercial Taxes, Patna North Circle, Patna.

.... Opposite Parties

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Appearance :
For the Petitioner/s : Mr. Suraj Samdarshi, Advocate
For the Opposite Party/s : Mr. Sri Ashok Kumar

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL ORDER

2 18-10-2017 Heard both sides.

Petitioner apprehends his arrest in Pirbahore P.S. Case No.233 of 2017 under Sections 467, 468, 471, 465, 464, 406 and 34 of the Indian Penal Code and under Sections 81(1)(b), 81(2), 81(3)(b) and 81(4) of the Bihar Value Added Tax Act, 2005.

The gist of allegation as it appears from paragraph-3 of page-17 of the F.I.R. (Annexure-1) that during the course of inspection Tulsi Enterprises sold articles of Rs.4,73,59,816.50 inclusive 13.5% VAT through TIN No.10496832078 but it transpired that the Tulsi Enterprises did not pay the Tax to the Commercial Tax Department.

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Mr. Suraj Samdarshi, learned counsel for the petitioner submits that it was the duty of Tulsi Enterprises to pay the VAT to the Commercial Tax Department as petitioner had already deposited the price of the articles purchased along with the VAT and Tulsi Enterprises had to deposit the tax to the Department. Learned counsel for the petitioner further submits that from perusal of Annexure-5, it would appear that Proprietor of Tulsi Enterprises wrote a letter to the Deputy Commissioner, North Circle, Patna that he is ready to pay the entire tax on transaction of Rs.4,73,59,816.50 made in favour of Padma Logistics, a firm of the petitioner. It is further submitted that the petitioner has filed a supplementary affidavit annexing Annexure-8 which shows that the petitioner has deposited tax Rs.85,94,162/- on 22.9.2017 in South Indian Bank bearing Demand Draft No.467972 under protest so that the business of the petitioner would not suffer any further subject to the condition that the petitioner shall be entitled to recover the same amount from the Proprietor of Tulsi Enterprises from whom he purchased the articles and also paid the tax VAT thereon but Tulsi Enterprises did not submit the VAT collected from the petitioner to the Department.

Considering the facts aforesaid, petitioner is directed to

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be released on anticipatory bail in the event of arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing bail bond of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Patna in connection with Pirbahore P.S. Case No.233 of 2017, subject to the conditions as laid down under Section 438(2) Cr.P.C.

(Prabhat Kumar Jha, J)

N.H./-

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