

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43135 of 2017

Arising Out of PS.Case No. -78 Year- 2017 Thana -PALIGANJ District- PATNA

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Om Prakash Sharma Son of Ram Tabakya Singh Resident of Village-Siyarampur, P.S. Paliganj, Distt. Patna.

.... Petitioner.

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner : Mr. Kulanand Jha
For the State : Mr. Madhuranand Jha, APP
For BSFC : Mr. Harish Kumar
For the informant : Mr. Sunil Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

8 24-01-2018 Heard learned counsel for the petitioner and the State.

The petitioner apprehends arrest in Paliganj P.S. Case No. 78 of 2017 instituted for the offence under Sections-406, 409, 420, 506 of the Indian Penal Code.

It is alleged in the FIR that the petitioner who was Chairman of PACS, has purchased 2233.8 quintals paddy from different farmers during the period 2014-15 but the Officer of the State Food Corporation only took delivery of 1724.88 quintals of paddy. Rest paddy had been returned to the farmers concerned but only three farmers including the informant of this case along with Madheshwar Prasad Singh and Baijnath Singh did not receive the paddy or the amount of paddy at the rate of Rs. 1660 which was the rate fixed at that time by the government for procurement of the paddy by the PACS chairman.

Counsel for the informant has submitted that he is ready to take



the amount of paddy at the rate of 1660 per quintal which is the amount paid to the petitioner by the Bank. Counsel for the informant has filed counter affidavit enclosing Annexure-C/1 which is list of purchased paddy prepared by the petitioner from the concerned farmers. Learned Counsel for the informant has submitted that the list as contained in Annexure-C/1 was submitted before the State Authorities indicating that the amount has been received from Cooperative Bank against the paddy purchased by the petitioner. But the petitioner was not ready to make payment of actual price of paddy to the informant and other farmers. Counsel for the informant has submitted that in the aforesaid statement, it is mentioned at serial Nos. 111, 112 and 113 that the petitioner purchased from informant Rahish Kumar and two other farmers namely, Madheshwar Prasad Singh and Baijnath Singh 140, 135 & 118 quintals of paddy respectively. Counsel for the informant has submitted that they are ready to accept the money from the petitioner for the paddy supplied to him at the price as shown in Annexure-C/1. Annexure-C/1 is own document of the petitioner which shows in the last column the amount received by the petitioner from the Cooperative Bank for purchase of the paddy from the farmers. The petitioner has submitted those documents before the State Authority.

In such circumstances, this petition stands disposed off with direction to the petitioner to make payment of the amount as shown in Annexure-C/1 to the informant and other two farmers within a period of two months from the date of receipt of the order in the court below and in that event, on producing valid receipt of making payment of aforesaid amount to the farmers as mentioned in the order above, the petitioner will be enlarged on anticipatory bail on furnishing bail bond of Rs. 10,000/- (ten thousand)



with two sureties of the like amount each in connection with in Paliganj P.S. Case No. 78 of 2017 to the satisfaction of learned Additional Sessions Judge-V, Patna subject to condition as laid down u/S 438(2) of the Cr.P.C. with further conditions (1) bailors should be local having sufficient immovable property within the jurisdiction of the court concerned, (2) petitioner shall cooperate in the trial and shall be present on each and every date fixed by the court and absence on two consecutive dates without proper and reasonable reason, will liable to cancel bail bond of the petitioner and (3) if petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

It is made clear that in the event the petitioner fails to make payment of aforesaid amount within the aforesaid period or fails to produce valid receipt showing payment of amount to the informant and two other farmers as mentioned above, the court below will be at liberty to pass appropriate orders in accordance with law without taking into consideration the aforesaid observation of this court.

(Sanjay Priya, J)

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