

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41203 of 2017

Arising Out of PS.Case No. -89 Year- 2017 Thana -DHURAIYA District- BANKA

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SURENDRA PRASAD MEHTA @ SURENDRA MEHTA, son of Sri Tarni Prasad Mehta, resident of Renu Complex, Bhoothnath Road, Near North Water Tank, PO-Bahadurpur Housing Colony, P.S.-Agamkuan, Patna-800026.

.... Petitioner/s

Versus

1. The State of Bihar &
2. The District Manager, Bihar State Food and Civil Supplies Corporation Ltd., Banka.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anant Kumar Sinha, Advocate

For the Opposite Party/s : Mr. S.M. Rahman, APP

For the BSFC : Mr. Niraj Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

6/ 06-02-2018

Heard learned counsel for the petitioner and learned

APP for the State.

Petitioner apprehends his arrest in **Dhoraiya P.S.**

Case No.89 of 2017 instituted for the offence under Section(s) 409, 420, 468 Indian Penal Code.

Allegation against the petitioner is that while the petitioner was in-charge of Procurement Centre, Dhoraiya, he purchased 87767.12 quintals paddy for the year 2012-13 and supplied 7222.99 quintals to miller and 15651.22 quintals paddy remained. On 12.12.2015, only 12307.12 quintal paddy was available in Procurement Centre for auction and 3344.10 quintal was not found available for auction. The petitioner has



misappropriated 3344.10 quintals of paddy. Petitioner was show-caused for loss of paddy and his reply was found not satisfactory.

Counsel for the petitioner has submitted that petitioner was transferred from Dhoraiya, Banka, to Rahui, Nalanda, as Labour Enforcement Officer, and the District Magistrate, Banka, issued letter dated 30.05.2013, in which it was mentioned that the petitioner would be deemed to have been relieved with effect from 16.06.2013 and would join at the transferred place. Aforesaid order of the District Magistrate has been annexed as Annexure-5. Counsel for the petitioner has further submitted that the petitioner after being relieved from Banka, joined at Rahui, Nalanda, in compliance of the aforesaid order of the District Magistrate as contained in Annexure-5. Thereafter, he was transferred to Muzaffarpur on promotion and finally he superannuated from Muzaffarpur on 30.06.2016 as Labour Superintendent. The instant case has been filed in the year 2017 after about one year of his superannuation.

Counsel for the petitioner has further pointed out running page 21 of the brief, which is part of the First Information Report, wherein, it is mentioned that earlier on 03.09.2014, auction of the paddy was done by the department and at that time total paddy was not taken by the auction purchaser



for which his earnest money was also forfeited.

Counsel for the petitioner has also pointed out Annexure-3 at page 35, wherein, it is mentioned that the paddy got damaged due to leakage of water from Water Tank and PHED was informed for the same and for non-repairing even action was taken against the officials of PHED.

Counsel for the BSFC has submitted in para 5 and 6 of the Counter Affidavit, that paddy was found in less quantity for which show cause notice was issued to the petitioner and the petitioner was directed to hand over charge.

Counsel for the petitioner has pointed out Annexure-7 (series) and submitted that he had filed his show cause with the department explaining the facts and reasons for shortage of paddy vide letter dated 14.03.2016, 26.07.2016 and 10.10.2016.

In this manner, from the First Information Report itself, the paddy was purchased by the petitioner as In charge Procurement Centre in the year 2012-13. The auction of paddy available at Procurement Centre was done on 12.12.2015. The petitioner has been relived from Procurement Centre, Dhoraiya, with effect from 16.06.2013, in terms of the letter of the District Magistrate, Banka, dated 30.05.2013. The First Information Report against the petitioner has been instituted on 08.05.2017.



In the facts and circumstances of the case, prayer of the petitioner for grant of anticipatory bail is allowed. In the event of surrender/arrest of the petitioner, named above, within six weeks from today in connection with **Dhoraiya P.S. Case No.89 of 2017**, he shall be released on anticipatory bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the **Additional Chief Judicial Magistrate, IV, Banka**, subject to the conditions as laid down under Section 438(2) 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 automatically 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.

(Sanjay Priya, J)

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