

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.3221 of 2017**

Arising Out of PS.Case No. -885 Year- 2016 Thana -BANKA District- BANKA

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Subodh Kumar Gupta, Son of Late Babu Lal Gupta, Resident of Village -  
Raj Bandh, P.S. - Dhoraiya, District - Banka at present resident of Mohalla -  
Hanuman Path, Tilkamanjhi, P.S. - Tilkamanjhi, District - Bhagalpur.

.... .... Petitioner/s

Versus

1. The State of Bihar.
2. The Bihar State Food & Civil Supply Corporation Ltd., Khadya  
Bhawan, Daroga Rai Path, R. Block, Road No. 2, Patna through its  
District Manager, Banka.

.... .... Opposite Party/s

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**Appearance :**

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|----------------------|---|-----------------------------------------------------------------|
| For the Petitioner/s | : | Mr. N.K. Agrawal, Sr. Advocate.<br>Mr. Sanjeet Kumar, Advocate. |
| For BSFC             | : | Mr. Shailendra Kumar Singh, Advocate                            |
| For the State        | : | Mr. Parmeshwar Mehta, A.P.P.                                    |

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**CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA**  
**ORAL ORDER**

9      11-01-2018                      Heard learned counsel for the petitioner and the State.

The petitioner apprehends his arrest in **Banka P.S.**

**Case No. 885 of 2016** instituted for the offence under Sections  
406 and 420 of the Indian Penal Code.

It is alleged in the written report that as per agreement  
the mill of the petitioner was provided 10,000 quintal of paddy  
and the miller was required to supply 6700 quintal of CMR @  
67% of supplied paddy, but the miller supplied 6480 quintal of  
CMR within the time limit fixed by the Government of India. He  
was directed to deposit remaining 220 quintal of CMR but the  
same was not deposited with mala fide intention. It is alleged in



the written report that value of 220 quintal of CMR comes to Rs. 4,76,423/-. which has been misappropriated and in this manner he has put the State Government under financial loss for his personal gain.

It has been submitted that petitioner is owner of M/s. Aman Rice Mill. It has further been submitted that dispute is totally matter of accounting. Petitioner has filed representation before the Managing Director, BSFC making claim of his milling and transportation charges and has been making repeated request by the Managing Director to adjust the amount due with him after adjusting his milling and transportation charges from the amount which is due with him as mentioned in the written report, but no action has been taken in the matter. He has further submitted that this Hon'ble Court vide order dated 9.2.2017 directed the petitioner to appear before the three men Committee and District Manager, BSFC, along with all relevant documents within one week giving detail of the amount due with him against the Corporation and the amount which is liable to be paid to him for his milling and transportation charge., which will be considered by the Committee and they will decide the same. A report to that effect has to be submitted within one moth thereafter. It is mentioned in the representation that petitioner is ready to make



payment after proper adjustment of the account.

It appears from the order dated 3.04.2017 that District Manager was directed to pass appropriate order on such representation within a period of two months.

Learned counsel for the petitioner has filed supplementary affidavit stating therein that he has filed a representation before the District Manager, Banka, in compliance of the order of this Hon'ble Court, but till date, no any report has been filed.

In this manner from the conduct of the petitioner, it appears that he is ready to make payment of entire dues after proper accounting. As such, no case under Sections 406 and 420 of the Indian Penal Code is made out against the petitioner as he has no intention to cheat the Corporation.

Learned counsel for the BSFC has appeared and submitted that petitioner be directed first to deposit the dues amount and also the relevant papers and, thereafter, necessary report can be given. This Court is not satisfied with such submission as the representation has already been filed by the petitioner long back before the competent authority in compliance of the order of this Court, but the competent authority has not cared even to send report to this Court about the action taken in



the matter.

Considering the facts and circumstances of the case, prayer for anticipatory bail of the petitioner is allowed. In the event of surrender/arrest of the petitioner, named above, within six weeks from today, in connection with **Banka P.S. Case No. 885 of 2016**, 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 learned **Chief Judicial Magistrate, 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 his absence on two consecutive dates without proper and reasonable reason will be liable to cancel his bail bond 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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