

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.4608 of 2018

Arising Out of PS. Case No.-112 Year-2015 Thana- KUDRA District- Bhabhua (Kaimur)

Rajendra Singh S/o Ramadhar Singh, R/o Village- Nasej, P.S.- Kudra,
District- Kaimur at Bhabua.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. District Manager , Bihar State of Food Corporation , Kaimur at Bhabua.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Tribhuwan Narayan

For the Opposite Party/s : Mr. Sri Sanjay Kumar Tiwary, APP.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 19-02-2018 The petitioner has challenged the order dated 06.07.2017 passed by the learned Judicial Magistrate, 1st Class Kaimur at Bhabua in Tr. No. 99 of 2017, G.R. No. 802 of 2015, arising out of Kudra P.S. Case No. 112 of 2015 which was instituted against the petitioner for the offences under Sections 409 and 420 of the Indian Penal Code, whereby the provisional bail which was granted to him by order dated 31.03.2016, has been cancelled.

The petitioner is a miller who had entered into an agreement with the District Manager of State Food Corporation, Kaimur at Bhabua and had received 5000 quintals of paddy from the corporation for milling the same and giving the corresponding value of 67% of the paddy, in terms of rice, to the State Food Corporation. Since the petitioner could not complete



the delivery of custom milled rice to the tune of 67%, the present case was lodged against him.

Learned counsel for the petitioner submits that he has, up till now, deposited 538 quintals of CMR which is short of the 2812 quintals of CMR which is required to be deposited.

The petitioner was granted provisional bail, which was kept on being extended, on the assurance of the petitioner that he will deposit the rest quantity of CMR with the State Food Corporation. Learned counsel for the petitioner has further submitted that on several dates, written representation was made by the petitioner before the concerned court seeking permission to deposit the balanced CMR, but the rice was not being accepted.

Learned counsel for the petitioner has also drawn the attention of this Court to the order sheet of the court below which indicates that every time the petitioner was present before the court; but only on one day he absented, whereafter his bail bonds were cancelled and non-bailable warrant of arrest was issued on 06.07.2017.

The Supreme Court, in a batch of cases of similar nature the first one being the Special Leave to Appeal (Cri.) No (s) 1779 of 2016, directed that the cases of this nature where the



State Food Corporation had entered into agreement with various millers would be decided and tried only at five places viz. Patna, Chhapra, Gaya, Darbhanga and Purnea. Considering the aforesaid facts, the case of the petitioner was transferred from the judgeship of Kaimur at Bhabua to the judgeship of Gaya.

The petitioner is, even today, ready to deposit the rice which is lying in his godown. That apart, learned counsel for the petitioner has also drawn the attention of this Court to the fact that at the time of entering into an agreement with the State Food Corporation, the petitioner had undertaken that in case of failure to deposit the required quantity of CMR, his property could be sold. The details of the property have been made a part of the deed of agreement.

In the case decided by the Supreme Court referred to above, it was taken note of that in order to ensure the security of the State money, either the millers had to furnish the bank guarantee of the amount of rice which was required to be returned to the State Food Corporation or personal property had to be mortgaged. In the absence of either of the two, the millers were directed to furnish the bank guarantee at the earliest, failing which a direction was given that the provisional bail, provisional anticipatory bail, anticipatory bail and regular bail



of the accused persons be cancelled.

In the present case, I find that the petitioner has undertaken that his property could be sold, if there was a failure to deliver the requisite amount of customed milled rice.

In that view of the matter, the order dated 06.07.2017 passed in Tr. No. 99 of 2017, G.R. No. 802 of 2015, arising out of Kudra P.S. Case No. 112 of 2015 is set aside.

The petitioner is directed to appear before the concerned court at Gaya and seek bail as well as permission from the court to return the CMR which is lying in his godown. The court at Gaya, dealing with the matter shall look into the facts and circumstances of the case and shall pass a reasoned order in accordance with law.

The application stands allowed with the direction as aforesaid.

(Ashutosh Kumar, J)

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