

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.29517 of 2017

Arising Out of PS. Case No.-79 Year-2017 Thana- BAHADURPUR District- Darbhanga

Ram Babu Prasad Son of Late Mangal Prasad, Resident of Village- Ekdari,
Chhauradano, Police Station- Chhauradano, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Managing Director, Bihar State Food & Civil Supplies Corporation Ltd. Patna.
3. The District Manager, Bihar State Food & Civil Supplies Corporation Ltd, Darbhanga.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Ms. Nivedita Nirvikar and Mr. Manoj Kumar, Advocates
For the BSFC	:	Ms. Namrata Mishra, Advocate
For the Opposite Party/s	:	Mr. Ram Naresh Ray, APP

CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
C.A.V. ORDER

14 29-08-2018 Heard learned counsels for the petitioner, the State
and the Bihar State Food & Civil Supplies Corporation Limited.

Petitioner apprehends arrest in connection with
Bahadurpur P.S. Case No. 79 of 2017 registered for the offence
punishable under sections 406, 407 & 420 of the Indian Penal
Code.

Petitioner had lifted 6124.73 quintal of paddy from
the Corporation for milling. In this regard an agreement was
also entered into between them. Petitioner pledged the property
of Rs. 3,41,76,000/- in favour of the Corporation. After milling,
he returned 2970 quintal rice i.e. 4432.84 quintal of paddy to the



Corporation. Petitioner was liable to return back 6124.73-4432.84 = 1691.89 quintal of paddy. For recovery, the Corporation filed Certificate Case No. 20 of 2014-15.

Learned counsel appearing for the petitioner submits that at the time of lifting of paddy itself petitioner had refused to lift the drenched bags of paddy, but on the assurance of the authority of the Godown that they will take the CMR without considering the quantity of rice, he lifted the entire paddy. It is further submitted that it has been admitted by the Corporation that an amount of Rs. 8,07,117/- of the petitioner is pending with them. Learned Counsel further submits that the Corporation wants recovery at the price of rice in place of lifted paddy. The rate of recoverable paddy is Rs. 1250/- per quintal and as such the amount recoverable from the petitioner come to 1691.89 quintal X Rs. 1250/- = Rs. 21,14,862.80, and not Rs. 24,54,899 as claimed by the Corporation. Out of the aforesaid amount petitioner has already deposited Rs. 13,07,745/- and the amount remains to be recovered is Rs. 8,07,117/- which is admitted to be due to be paid to the petitioner by the Corporation, and as such, there is no liability on the petitioner towards the Corporation. In the aforesaid circumstances, petitioner deserves to be granted to privilege of anticipatory



bail.

Learned counsel appearing for the Corporation submits that in the certificate case filed by the Corporation petitioner was directed to pay Rs. 24,54,989.88 to the Corporation within fifteen days, but petitioner paid only Rs. 13,07,745/- and he is further required to pay Rs. 11,47,154.00 for which several notices were given to him, but he has not paid the amount in question till date. It is further submitted that in similar matter, Hon'ble Supreme Court directed for furnishing Bank Guarantee as a condition precedent for grant of anticipatory bail/bail and despite notice in this regard, petitioner has not furnished any Bank guarantee with the Corporation. It is also submitted by the learned counsel for the Corporation that the petitioner has only submitted Deed of Pledge and valuation certificate but he did not submit documents with regard to the property. Learned counsel further submits that the transportation/milling charges of the petitioner would be settled only after payment of the loss amount by the petitioner. Further CMR comes under the head "Revenue Receipt" whereas transportation and milling charges comes under the head "Expenditure", and as such, both cannot be adjusted. Petitioner may be directed to first pay the CMR loss of Rs. 11,47,154.00



and get “No Dues Certificate” and thereupon submit the same to the Corporation alongwith the transportation and milling charges, and only thereafter his claim will be considered by the Corporation. In the aforementioned circumstances, the prayer of the petitioner for grant of anticipatory bail is fit to be rejected.

Considering the submissions advanced on behalf of the parties and the facts and circumstances of the case, this Court does not find it to be a fit case for grant of anticipatory bail. It is, accordingly, rejected.

(Arvind Srivastava, J)

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