

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2820 of 2017

Arising Out of PS.Case No. -886 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.- Dohraiya, 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 :

For the Petitioner/s : Mr. N.K. Agarwal, Sr. Advocate.
Mr. Sanjeet Kumar, Advocate.
For BSFC : Mr. Shailendra Kumar Singh, Advocate
For the Opposite Party/s : Mr. Uday Pratap Singh, 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. 886 of 2016 instituted for the offence under Sections
406 and 420 of the Indian Penal Code.

It has been submitted that petitioner is owner of M/s.
Shivangi Food Processing unit for milling purpose. As per SIO,
total 52743.81 quintal of paddy was supplied to different purchase
centre. The liability of miller was to supply 35338.15 quintal of
CMR @ 67% of supplied paddy, but the miller supplied 33210
quintal of CMR within the time limit fixed by the Government of
India. The miller was directed to deposit remaining 2128.15



quintal of CMR but the same was not deposited with mala fide intention. Petitioner is ready to pay the amount after proper adjustment of his milling and transportation charges for which he has already filed representation before the Managing Director, BSFC. He has further submitted that this Hon'ble Court vide order dated 14.02.2017 directed the petitioner to appear before the Managing Director, BSFC with all papers in support of his claim within a week which will be considered by Managing Director and he will decide the same. A report to that effect has to be submitted within one month thereafter.

Learned counsel for the petitioner has filed supplementary affidavit stating therein that he has filed a representation in compliance of the aforesaid order before the Managing Director, BSFC, but no report has been received to this Court till date. The matter is still pending before the BSFC. It has been submitted that it is a matter of accounting and a representation has already been filed before the Managing Director, BSFC, in compliance of the order of this Court dated 14.02.2017, but no final order has been passed by the Managing Director of BSFC. As such, no case under Sections 406 and 420 of the Indian Penal Code is made out against the petitioner.

The informant has alleged that total value of 2128.15



quintal of CMR comes to Rs.46,08,636/-. It is further mentioned in the First Information Report that accused has deposited total amount of Rs.22,23,063/- on different dates and remaining amount of Rs.23,85,465/- has not been deposited. The miller has in this manner put the State Government under financial loss for his personal gain.

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 which is 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. 886 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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