

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.42027 of 2017

Arising Out of PS.Case No. -68 Year- 2017 Thana -AMARPUR District- BANKA

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1. Niranjan Kumar Gai @ Niranjan Gain, son of late Ratikant Gai @
Rarinath Gai, resident of village-Amarpur P.S. Amarpur District Banka.

.... Petitioner/s

Versus

1. The State of Bihar
2. Bihar State Food and Civil Supplies Corporation Ltd. Banka, through its
Managing Director.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Mishra, Advocate

For the Opposite Party/s : Mr. Nawal Kishore Prasad, APP

For the BSFC : Mr. Shailendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

13/ 15-01-2018

Heard learned counsel for the petitioner and learned

APP for the State as well as counsel for the BSFC.

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

Case No.68 of 2017 instituted for the offence under Section(s)
406,409, 420 Indian Penal Code.

Allegation against the petitioner is that he being the
Chairman of Amarpur Vyapaar Mandal, entered into agreement
on behalf of Amarpur Vyapaar Mandal Rice Mill with BSFC for
milling the paddy for the financial year 2012-13. He was
provided with total 20,000 quintals of paddy through SIO and out
of which only 3780.00 quintal CMR were made available to
BSFC, Banka, in total 13,400.00 and he grabbed 9620 quintal
CMR, which costs Rs.2,08,32,687.00 and in spite of notice the



petitioner did not deposit the aforesaid amount and defalcated the government money.

Counsel for the petitioner has submitted that the petitioner was Chairman of Amarpur Vyapaar Mandal and in the Certificate Case lodged against Amarpur Vyapaar Mandal, order has been passed to recover the amount from the Amarpur Vyapaar Mandal by taking all coercive steps against it, but BSFC has not taken any steps for recovery of the amount. Counsel for the petitioner has further submitted that Amarpur Vyapaar Mandal is liable to make payment of the amount and, at present, petitioner is not the Chairman of Amarpur Vyapaar Mandal. Counsel for the petitioner has submitted that he will take all steps for recovery of the amount of BSFC from Amarpur Vyapaar Mandal within a period of two months.

Counsel for the BSFC has pointed out page 2 of the deed of agreement entered between the petitioner and the BSFC, wherein, petitioner has been described as Proprietor of Rice Mill Amarpur Vyapaar Mandal and on the last page of the agreement he has put his signature as Proprietor of the aforesaid Vyapaar Mandal. Counsel for the BSFC has further submitted that notice was also issued for recovery of the amount from the petitioner describing him as Proprietor of aforesaid Vyapaar Mandal and he



never raised any objection before the BSFC. The Certificate Officer has passed order for recovery of CMR amount from the Vyapaar Mandal by order dated 28.01.2017. The petitioner has not denied anywhere about the amount of CMR of the BSFC due with him.

In such circumstances, this application is disposed of with direction to the petitioner to surrender before the **Chief Judicial Magistrate, Banka**, in connection with **Amarpur P.S. Case No.68 of 2017**, within a period of eight weeks from the date of receipt of a copy of this order in the Court below either along with Bank Guarantee for the loss of amount as mentioned in the written report or with the proof that the petitioner during the aforesaid period by taking effective steps has cleared the dues of the BSFC and, in that event, the Court below on being satisfied will release the petitioner on anticipatory bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each 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.

It is made clear that if the petitioner does not furnish either Bank Guarantee for the loss as alleged in the written report or the proof that dues of BSFC has been cleared by him by taking effective steps, as undertaken, the Court below will be at liberty to pass appropriate order in accordance with law without taking into consideration the aforesaid direction.

This application is, accordingly, disposed off.

(Sanjay Priya, J)

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