

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.61307 of 2017

Arising Out of PS. Case No.-312 Year-2013 Thana- FATUHA District- Patna

Hari Shankar Prasad S/o Late Sudama Sah, R/o 2A, Radha Block, Mukund Kunj Apartment, Kanti Factory Road, M.G. Nagar, Kankarbagh, P.S.- Patrakar Nagar, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar Through The Bihar State Food & Civil Supplies Corporation Ltd.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pravin Kumar

For the Opposite Party/s : Mr. Shailendra Kumar Singh

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL ORDER

7 14-05-2018 Heard learned counsel for the petitioner and learned APP
for the State.

Petitioner apprehends his arrest in Fatuha P.S. case no. 312 of 2013 instituted for the offence under Section(s) 406 and 420 IPC. Later on, Sections 409, 467, 468, 471 and 120B of the IPC is added.

It is alleged in the written report that this petitioner, while working as In-charge District Manager Bihar State Food and Civil Supplies Corporation, Patna had entered into an agreement with Rice Millers to supply paddy. The rice miller was required to convert the paddy into CMR and the said CMR was to be deposited in the Depot of Food Corporation of India. The agreement with Sidhi Vinayak Mill, Sonaru Fatuha was entered on 23.3.2013. It is further alleged that aforesaid Rice



Mill was supplied with total 29200.00 quintals of paddy from different procurement centres and the said Rice Miller was noticed vide letter no.2392 dated 19.8.2013, letter no.2488 dated 27.8.2013 and letter no.2587 dated 7.9.2013 for supply of CMR. But in spite of that he has not supplied the CMR. It is further alleged that Sidhi Vinayak Rice Miller has not supplied single lot of CMR. During inspection of premises, it was found that said premise was closed and the local persons told that the said Mill was closed since long time and no milling work was done. Thereafter, the videography was also done of the said premises from which it appears that the capacity of the mill for keeping the paddy was not for 29000.00 quintals. The premises looked like residential building. It is further alleged that Sidhi Vinayak Rice Miller has misappropriated the government paddy on account of which government has suffered a revenue loss of Rs.42367016.00.

Learned counsel for the petitioner has submitted that he has entered into an agreement with the aforesaid miller in terms of letter No.468 dated 5.03.2013 of District Magistrate, Patna (Annexure-3) whereby it was ordered to enter into an agreement with the three rice mills as mentioned in the written report. Thereafter, the petitioner entered into an agreement with the



aforesaid miller on 23.03.2013 in compliance of letter of the government contained in Annexure-4 which provides that in case the miller does not furnish the bank guarantee he has to pledge immovable property in the form of mortgage and he could pledge immovable property for the entire value of paddy and accordingly a deed of pledge of land was executed on 23.03.2013 which is part of Annexure-3 and thereafter the paddy was supplied to the miller.

Learned counsel of the petitioner has also drawn attention of the Court towards Annexure-6 series wherein a direction was given to supply the paddy to the miller as recommended by the government and the person who will found committing lapse will be liable for departmental proceeding.

Learned counsel for the petitioner has submitted that rice miller has defalcated the paddy. The petitioner has supplied the paddy to the rice miller as per the letter of District Magistrate as contained in Annexure-3.

A counter-affidavit on behalf of the BSFC has been filed wherein there is no denial about the issuance of Annexure-3 and also the terms and conditions as contained in Annexure-4 for entering into an agreement with the miller. It is also an admitted position in the counter affidavit that paddy has been



supplied to the Sidhi Vinayak Rice Mill by the petitioner and the miller has misappropriated the paddy.

The counsel of BSFC has pointed out para(s) 6 and 9 of the counter-affidavit wherein it has been mentioned that without proper verification of the mill the petitioner has supplied the paddy to the miller.

This Court finds that the paddy was supplied to the aforesaid miller as per the instruction of District Magistrate Patna as contained in Annexure-3. The petitioner has entered into an agreement with aforesaid miller as per the instruction contained in government letter annexed as Annexures 4 and 6. Therefore, the prayer for grant of anticipatory bail to the petitioner is allowed. In the event of surrender/arrest of the petitioner, named above, within six weeks from today in connection with **Fatuha P.S. case no. 312 of 2013**, 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 the learned **Additional Chief Judicial Magistrate, Patna City, District-Patna**, 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.

(Sanjay Priya, J)

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