

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69290 of 2018

Arising Out of PS. Case No.-417 Year-2017 Thana- MOTIPUR District- Muzaffarpur

Byom Prakash Singh @ Vyom Prakash Singh Son of Late Deodhari Singh, the then Block Supply Officer-Cum-Officer Incharge, Paddy Purchase Centre-2 For Paddy Session 2012-13, Block-Motipur, District-Muzaffarpur at Present Resident of Mohalla-Ramghat Road, Anderkila, P.O. Hajipur, P.S. Town Hajipur, District-Vaishali.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Dinesh Maharaj, Adv.
For B.S.F.C.	:	Mrs. Namrata Mishra, Adv.
For the State	:	Mr. Parmeshwar Mehta, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 16-04-2019 Heard learned counsels for the petitioner and the State.

The petitioner is apprehending arrest in a case registered for the offences punishable under Sections 406, 409 and 420/34 of the IPC and Section 7 of the Essential Commodities Act.

The prosecution case, as per the written report of Ram Balak Prasad, District Manager, State Food Corporation, Muzaffarpur, dated 10.11.2017 submitted to the Station House Officer, Motipur Police Station, is to the effect that the petitioner was deputed as In-Charge of Paddy Purchase Centre-2, Motipur for the paddy procurement year 2012-13 by the District Magistrate, Muzaffarpur, vide office order no. 1837,



dated 21.11.2012. In the year 2012-13, the petitioner purchased total 41,358 quintal paddy from different Primary Agriculture Cooperative Societies and subsequently, payments were made. It is further alleged that three rice miller were supplied total 11,710.92 quintal of rice and hence, the remaining rice of 29,647.08 quintal were remained in the stock. Consequently, the petitioner lodged Motipur P.S. Case No. 170 of 2013 against the godown owner for theft of 4707.60 quintal of rice and when the District Manager, State Food Corporation, Muzaffarpur came to know about theft of rice, he also lodged Motipur P.S. Case No. 171 of 2013 against the petitioner. After completion of paddy procurement year 2012-13, for the auction of the remaining rice at Motipur Paddy Purchase Centre No.2, on the order of District Manager, State Food Corporation, Muzaffarpur, the committee was constituted under the Chairmanship of District Magistrate, Muzaffarpur and rice was sold after preparing inventory. As per inventory, total 20,714.10 quintal rice was found. Accordingly, excluding the theft grains of 4707.60 quintal, 4225.38 quintal of rice ought to have been in the stock, hence at the rate of Rs. 1421/- per quintal, Rs. 60,04,264.98/- was found short.

Learned counsel for the petitioner submits that theft was committed in the year 2013 when the petitioner lodged Motipur



P.S. Case No. 170 of 2013 against the authorities, and subsequently, in order to save skin, the present case has maliciously been lodged. Consequently, a departmental proceeding was initiated against the petitioner and he was suspended on 31.07.2013 and ultimately, he was dismissed from service on 19.01.2016. It is further submitted that entire stock was under control either of District Administration or the State Food Corporation and left paddy was auctioned immediately after completion of paddy procurement year of 2012-13, but the present FIR was lodged in the year 2017, which suggests that either FIR of Motipur P.S. Case No. 171 of 2013 was lodged without verifying the stock or stock was not verified in the year 2013 and now with malicious accusation, the present FIR has been lodged.

Learned counsel for the Bihar State Food Corporation submits that Motipur P.S. Case No. 171 of 2013 was lodged only with respect to the stolen quantity of paddy, but subsequently, on verification of the stock, it was found that even excluding the stolen quantity, the paddy was found short to the tune of 4225.38 quintals and hence, the present FIR has been lodged.

Considering the rival submission of the parties, from the



FIR, it appears that Motipur P.S. Case No. 171 of 2013 was lodged on 07.07.2013 without verification of the stock or in spite of the fact that stock was found short, the FIR was only lodged to the extent of alleged theft of paddy. From the FIR, it further appears that the stock was verified in the year 2013 itself and since the petitioner was suspended in the year 2013 itself and charge was given to someone else, hence there is no explanation by the prosecution with regard to lodging of the present FIR in the year 2017 for the shortage of 2013, coupled with the fact that the petitioner has been dismissed from service, let the above named petitioner be released on anticipatory bail in the event of arrest/surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of like amount each to the satisfaction of learned Judicial Magistrate-1st Class-cum-Special Magistrate, Paddy Miller Cases, Chapra in connection with Motipur P.S. Case No. 417 of 2017, subject to the condition as laid down under Section 438(2) of the Cr. P.C.

(Dinesh Kumar Singh, J)

Amrendra/-

U		T	
---	--	---	--

