

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23605 of 2020

Arising Out of PS. Case No.-186 Year-2019 Thana- FALKA District- Katihar

Sunil Kumar Jaiswal, Son of Late Ramnath Jaiswal, Resident of Mohalla - Chandan Nagar, Gulababg, P.S.- Sadar, District - Purnea (Prop. of Sidhi Vinayak Rice Mill), Purnea.

... .. Petitioner

Versus

1. The State of Bihar
2. Nutan Devi, Wife of Janardhan Pd. Resident of Village - Tapuwa, Govind Pur, P.S.- Falka, Dist.- Katihar.
3. The District Manager, Bihar State Food And Civil Supplies Corporation, Purnea.

... .. Opposite Parties

Appearance :

For the Petitioner/s	:	Mr.Shashi Bhushan Kumar, Advocate
For the Opposite Party/s	:	Mr. Akhileshwar Dayal, A.P.P.
For the BSFC	:	Mr. Shailendra Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

12 01-03-2021 Heard learned counsel for the petitioner, Mr. Shailendra Kumar Singh, learned counsel for the Bihar State Food and Civil Supplies Corporation and Mr. Akhileshwar Dayal, learned APP for the State.

Though notice was issued to opposite party no.2 and as per office note the notice issued is showing delivered on the tracking system but no one has entered appearance on behalf of opposite party no. 2.

The petitioner in the present case is seeking pre-arrest bail in connection with Falka P.S. Case No. 186 of 2019 registered for the offences punishable under Sections 409 and



420 of the Indian Penal Code.

Learned counsel for the petitioner submits that the present case has arisen on the basis of a complaint filed by opposite party no. 2 who is Chairman of the PACS alleging therein that this petitioner has received 1085 quintal and 25 kg. of the paddy from the PACS and has deposited proportionate CMR only with respect to 700 quintal of paddy. The allegation is that the petitioner has not deposited proportionate CMR against the remaining 385 qauintal and 25 kg. of paddy.

Learned counsel submits that the matter relates to the procurement year 2015-2016 and in respect of this year there was an agreement between the complainant and the petitioner which is available at Annexure '2' to the present application.

It is submitted that according to the agreement (Annexure '2'), the miller has to receive the paddy from the PACS only after depositing the CMR in the ratio of 67: 100.

Learned counsel submits that the very allegation that the PACS had given paddy to the miller is contrary to the terms of the agreement and this has been done only to save herself being the Chairman of the PACS from being prosecuted by the Bihar State Food and Civil Supplies Corporation (hereinafter referred to as the 'Corporation').



Learned counsel submits that to show his bonafide the petitioner is ready to deposit the entire amount of Rs. 4,81,562/- value of the difference quantity of the paddy in the learned court below.

Learned counsel, however, submits that the amount should not be allowed to be withdrawn by the PACS in case the PACS withdrew the amount, it would be difficult for the petitioner to realise the same.

Mr. Shailendra Kumar Singh, learned counsel for the Corporation has taken instruction and submits that so far as the case of the procurement year 2015-2016 is concerned, it is totally different and during this period, as per agreement, the PACS was obliged to give paddy to the miller only after receiving the CMR from the miller. It is submitted that in this case it seems that opposite party no. 2 has lodged the case in order to save herself.

Learned counsel submits that since the petitioner is ready to deposit the difference amount in the learned court below subject to the result of the case he does not oppose the application for grant of anticipatory bail. However, learned counsel submits that Corporation is free to take appropriate action against the PACS Chairman.



In the opinion of this Court, nothing is required to be said on the above submission on behalf of the Corporation.

In the given facts and circumstances of the case, in the nature of the materials noticed hereinabove, the petitioner above-named, in the event of his arrest or surrender within a period of four weeks from today in connection with Falka P.S. Case No. 186 of 2019 shall be released on bail on furnishing of bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, Katihar, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C. i.e.

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court.

And further condition that in terms of his own



undertaking given before this Court, the petitioner shall deposit a sum of Rs. 4,81,562/- in two installments in the learned court below. The first installment of 50% shall be deposited at the time of submission of bail bond and rest 50% shall be deposited within one month thereafter in the court below which will be subject to result of the criminal case.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

