

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.74234 of 2019**

Arising Out of PS. Case No.-75 Year-2015 Thana- BIHRA District- Saharsa

---

SRI PRAMOD KUMAR (BAS), Male, aged about 56 years, son of Late Jaglal Choudhary, Resident of Village - Bhergawan, P.O. - Manikpur, P.S.- Dhanaura, Distt - Patna, State - Bihar.

... .. Petitioner

Versus

1. The State of Bihar.
2. The District Manager, Bihar State Food Corporation, Saharsa.

... .. Opposite Parties

---

**Appearance :**

|                      |   |                                          |
|----------------------|---|------------------------------------------|
| For the Petitioner/s | : | Ms. Nivedita Nirvikar, Advocate          |
|                      |   | Mr. Bishwa Bibhuti Kumar Singh, Advocate |
| For the State        | : | Mr. Parmeshwar Mehta, APP                |
| For the B.S.F.C.     | : | Mr. Shailendra Kumar Singh, Advocate     |

---

**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**  
**ORAL ORDER**

12    18-01-2021                      Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for the Bihar State Food and Civil Supplies Corporation.

In this case, the petitioner is seeking anticipatory bail in connection with Bihra (Saharsa) P.S. Case No. 75 of 2015, registered for the offence under Sections 406, 420 and 409 of the Indian Penal Code.

Allegation has been made that the rice millers have not deposited the rice proportionate to the quantum of paddy received by them from the Corporation, thereby misappropriate 9161.70 quintal of paddy, which is valued at Rs.1,98,40,254/-. It



has been submitted that out of the aforesaid amount, the rice millers have deposited Rs.20,00,000/- in the present case.

Learned counsel for the petitioner has drawn the attention of this Court to the order of the Hon'ble Supreme Court dated 28.02.2017 passed in Special Leave to Appeal (Cri.) No.1779 of 2016 and other cases and has submitted that the State had preferred S.L.P. against the order of this Court and the Hon'ble Supreme Court has modified the conditions of the anticipatory bail. Major conditions are that *“the accused in all the F.I.R.(s), will ensure that bank guarantee, if not furnished, is furnished and if lapsed, is renewed within a period of one month from today failing which the anticipatory bail granted will stand cancelled”* and *“the accused will cooperate with investigation/ trial and their failure to appear, when required, will be a ground for cancellation of anticipatory bail. An order of cancellation will be passed by the trial court on being satisfied about such failure”*.

Learned counsel for the petitioner further submits that in view of the aforesaid order of the Hon'ble Supreme Court, the petitioner is also entitled for grant of anticipatory bail in the same terms.

Learned counsel for the B.S.F.C. has resisted the



argument advanced by learned counsel for the petitioner and submitted that even after the notice, the rice millers have not complied the direction of the Hon'ble Supreme Court.

In the present case, a huge fund of the B.S.F.C. has been misappropriated and during the investigation, the Special team constituted by this Court, found that millers including this petitioner were involved in the entire episode of misappropriation of fund of the B.S.F.C. in different ways.

The petitioner has got criminal antecedent. When this Court asked learned counsel for the petitioner to deposit Rs.10,00,000/- in the event of grant of anticipatory bail, in reply, learned counsel for the petitioner submits that the petitioner is in position to deposit Rs.7,00,000/- only within 15 days from today.

Looking to the entire facts and circumstances of the case, let the above-named petitioner, be released on ***provisional anticipatory bail*** in the event of his arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing bail bonds of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge, Darbhanga, in connection with Bihra (Saharsa) P.S. Case No. 75



of 2015, subject to the condition as laid down under Section 438(2) of the Code of Criminal Procedure. This is also subject to the condition that the petitioner shall deposit Rs.7,00,000/- in the office of the B.S.F.C. and produce the receipt of depositing the aforesaid amount before the Court below within a period of 15 days from the date of his release, in turn, the Court below, after proper verification of the records, would make the provisional bail absolute. In failure to deposit the aforesaid amount within stipulated period of 15 days from the date of release, this order will be treated to have been withdrawn.

It is made clear that if the entire money is recovered / received from the rice millers, in that circumstance, the B.S.F.C. would return the aforesaid amount of Rs.7,00,000/- to the petitioner but, if the said amount is not recovered / received from the millers, in that circumstance, the money will be adjusted and will not require to be returned to the petitioner.

Accordingly, this bail application stands disposed of.

**(Shivaji Pandey, J)**

pawan/-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

