

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 68376 of 2019

Arising Out of PS Case No.-282 Year-2018 Thana- WARSALIGANJ District- Nawada

Dharmendra Prasad, aged about 35 years, Male, Proprietor of Aditya Agro Enterprises, Son of Late Ramswaroop Singh, Resident of Village - Koachgaon, PS- Warsaliganj, District - Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Managing Director, Central Cooperative Bank, Nawada, District – Nawada.
3. The Bihar State Food and Civil Supplies Corporation through the District Manager, Nawada, District Nawada.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sumeet Kumar Singh, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, APP
For the CCB, Nawada	:	Mr. Bindhyachal Rai, Advocate
For the BSFC	:	Mr. Shailendra Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 12-03-2021

Heard Mr. Sumeet Kumar Singh, learned counsel for the petitioner; Mr. Jharkhandi Upadhyay, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State; Mr. Bindhyachal Rai, learned counsel for the Central Co-operative Bank, Nawada (hereinafter referred to as the ‘Bank’) and Mr. Shailendra Kumar Singh, learned counsel for the Bihar State Food and Civil Supplies Corporation Limited (hereinafter referred to as the ‘BSFC’).

2. The petitioner apprehends arrest in connection with Warsaliganj PS Case No. 282 of 2018 dated 10.08.2018, instituted under Sections 420, 406 and 409 of the Indian Penal Code.



3. The allegation against the petitioner is that he was supplied 4548.70 quintals of paddy of which 67% of CMR was to be returned by him. However, the same was not done and the value of which was over Rs. 70,50,020/-.

4. Learned counsel for the petitioner submitted that as per the allegation, the paddy was procured by the four PACS and the concerned PACS of two blocks have deposited over Rs. 37 lakhs with the Bank whereas Rs. 6 lakhs has been deposited by the petitioner and with regard to the rest, there is an FIR against the concerned PACS. It was submitted that in such view of the matter, the FIR cannot become a mode of recovery of any disputed amount. Learned counsel submitted that a co-ordinate Bench in the case of **Manita Priya**, by order dated 25.06.2019 passed in Cr. Misc. No. 37061 of 2019, has granted provisional anticipatory bail upon deposit of 20% of the remaining amount by the said petitioner against whom similar allegation was levelled. It was further submitted that the petitioner does not have any criminal antecedent. It was submitted that the petitioner's outstanding, as per the FIR, is only ten lakhs.

5. Learned counsel for the Bank submitted that the petitioner has himself admitted with regard to his receiving the paddy and, thus, it is incumbent upon him either to pay the money



or supply 67% CMR of the same, which has not been done. It was submitted that both the PACS and the petitioner are liable and that is why against both there have been FIR. Learned counsel submitted that in view of the fact that the petitioner himself has admitted receiving the paddy, of which 67% has not been returned as CMR, obviously, the said constitutes a criminal liability. Learned counsel for the Bank does not admit that this the only amount.

6. Learned counsel for the BSFC adopted the arguments of learned counsel for the Bank and submitted that the petitioner is liable to either pay the amount or return the CMR/paddy.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court was not inclined to grant pre-arrest bail to the petitioner.

8. However, at this juncture, learned counsel for the petitioner submitted that he shall clear whatever outstanding dues are against him of the Bank, as per the FIR, within one month and take such Certificate from the Bank and present it before the Court below and then the Court may release him on bail.

9. Having regard to the categorical stand taken on behalf of the petitioner, by way of indulgence, let the petitioner clear the entire outstanding dues against him of the Bank and then



obtain a Certificate to this effect from them within two months from today. If the same is done, the petitioner shall appear before the Court below with the original Certificate issued by the Bank in favour of the petitioner relating to present FIR. Upon doing so, the petitioner shall be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned ACJM-II, Nawada in Warsaliganj PS Case No. 282 of 2018, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973, and further (i) that one of the bailors shall be a close relative of the petitioner and (ii) that the petitioner shall cooperate with the Court/police/prosecution. Failure to cooperate or violation of any terms/conditions shall lead to cancellation of his bail bonds.

10. It shall also be open for the prosecution to bring violation of the foregoing condition of bail by the petitioner, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner.

11. It is made clear that if the petitioner fails to submit such Certificate from the Bank with regard to clearing the entire dues, within two months from today, it will be deemed that the present application has been dismissed.



12. It is clarified that the dues of the petitioner with regard to all the PACS named in the FIR shall be cleared since the petitioner has admitted receiving the total amount of paddy from the concerned PACS.

13. The Court would further observe that the ultimate claim of the parties shall be as per the records and in accordance with law, and the present order has been passed only for the purpose of grant of anticipatory bail.

14. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar/ J. Alam

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