

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13469 of 2021

Arising Out of PS. Case No.-220 Year-2016 Thana- DHAKA District- East Champaran

MD MERAJ S/O Late Saheb Jan Miya R/o Village- Lahan, Dhaka, P.S. -
Dhaka, District - East Champaran.

... .. Petitioner/s

Versus

THE STATE OF BIHAR THROUGH THE DISTRICT MANAGER, BIHAR
STATE FOOD CORPORATION, EAST CHAMPARAN, MOTIHARI, Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dilip Kumar Tondon, Advocate
For the Opposite Party/s : Mr. Shailendra Kumar Singh, Advocate
Mr. Utkarsh Utpal, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

7 03-01-2022 Heard learned counsel for the petitioner and learned
counsel for the Bihar State Food and Civil Supply Corporation
(‘BSFC’ in short).

The petitioner has preferred this application for grant
of regular bail in a case registered under sections 420 and 406 of
the Indian Penal Code.

As per the prosecution case, allegation against the
petitioner is of non accounting of 1055.85 quintals of paddy and
as a consequence defalcation of Rs. 14.88 lacs approx by the
petitioner.

It is submitted by learned counsel for the petitioner
that the petitioner had moved this Court earlier for grant of
anticipatory bail vide Cr. Misc. No. 15806 of 2017 which was



allowed by order dated 18.5.2017 with certain conditions of payment of the arrears / amounts in instalment as mentioned therein. It is further submitted on merits that the respondent BSFC did not conduct any inquiry before lodging of the FIR. They do not take CMR on time. The petitioner is not a defaulter and not being in a position to pay the arrear amounts as directed by the earlier order, he was taken into custody on 2.10.2020. With respect to the order of the Hon'ble Supreme Court relied on by learned counsel appearing for the BSFC it is submitted that the order dated 18.5.2017 granting bail to the petitioner was not challenged by the respondent BSFC before the Hon'ble Supreme Court and thus the order brought on record in the counter affidavit of the BSFC would not be applicable in case of the petitioner. The petitioner has remained in custody for over one year and chargesheet has been submitted in the case.

The application for bail is opposed by learned counsel appearing for the BSFC. A counter affidavit has been filed which is taken on record. Referring to the order of the Hon'ble Supreme Court brought on record as Annexure-A to the said counter affidavit it is submitted that large number of orders granting bail to different accused persons in connection with similar matters were subject matter of the case before the



Hon'ble Supreme Court. The orders granting anticipatory bail / bail was not interfered with by the Hon'ble Supreme Court, however, certain conditions were laid down. It was further stated by the Hon'ble Apex Court that on compliance of the above order, if any accused is in custody, he will be granted bail in accordance with law. It is submitted that the very condition no. 1 in the said order states that the accused in all the FIR(s) will ensure that the 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/bail granted will stand cancelled. Admittedly the petitioner not having furnished bank guarantee nor having complied with the directions granting anticipatory bail to him vide the order dated 18.5.2017, it is prayed that the application for bail be rejected.

Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case, the contents of the conditions laid by the Hon'ble Supreme Court in the order dated 28.2.2017 (Annexure-A to the counter affidavit of the BSFC), the Court is not inclined to enlarge the petitioner on bail and the application is rejected.

However, liberty is granted to the petitioner to renew his prayer for bail in the learned court below itself once he



satisfies the conditions laid by the Hon’ble Apex Court.

(Partha Sarthy, J)

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