

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1105 of 2022

Arising Out of PS. Case No.-37 Year-2018 Thana- JAMHOR District- Aurangabad

Binod Kumar S/o Shambhu Mehata R/o village- Jamhor, P.S.- Jamhor,
District- Aurangabad

... .. Petitioner

Versus

1. The State of Bihar through the Principal Sect., Bihar State Food and Civil Supplies Department, Bihar, Patna,
2. The Managing Director, Bihar State Food and Civil Supplies Corporation, Bihar, Patna.
3. The District Magistrate -cum-District Certificate Officer, Aurangabad.
4. The District Manager, Bihar State Food and Civil Supplies Corporation, Aurangabad.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. P. N. Shahi, Sr.Adv.
Mr. Ram Pravesh Nath Tiwari, Advocate
For the Respondent/s : Mr. Shailendra Kumar Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 22-12-2022 Learned counsel for the petitioners undertakes to remove the stamp report defects within two weeks after Christmas Holidays.

This case has been taken up on mentioning made by learned counsel for the petitioner.

Petitioner in the present case is aggrieved by and dissatisfied with the order dated 11.01.2022 passed in G.R.No.617/2018 arising out of Jamhore P.S. Case No.37/2018 by the learned A.C.J.M.-III Court, Aurangabad whereby and whereunder the learned court below has been pleased to cancel the bail bond of the petitioner and issue non-bailable warrant



against him.

Learned counsel for the petitioner submits that on an application filed by and on behalf of the Bihar State Food and Civil Supplies Corporation, Aurangabad (hereinafter referred to as the 'Corporation') alleging non-compliance with the conditions of grant of anticipatory bail to the petitioner, the learned A.C.J.M.-III, Aurangabad has cancelled the bail bond of the petitioner on the ground that the petitioner had not fulfilled the conditions which he had undertaken to fulfill in the matter of grant of anticipatory bail to the petitioner.

Learned counsel submits that the petitioner is still ready and willing to deposit 3275.99 quintals of rice which is alleged to have been misappropriated.

Mr. Shailendra Kumar Singh, learned counsel for the Corporation submits that the petitioner is a rank defaulter and despite indulgences given to him on earlier occasion by the learned Additional Sessions Judge, Aurangabad, he has not deposited the said rice. Learned counsel points out that the allegation against the petitioner is that he had provided to one OM Jai Bishnu rice mill the premises for storage of custom milled rice (in short 'CMR'). The Corporation had provided 23171.95 quintals of rice in the month of July for storage to said



Om Jai Bishnu CMR godown and according to the release order from the said godown 7447.72 quintals of rice was released till 31.07.2017. In course of physical verification of rice, 6000 quintals of rice was found in the said godown. It was found that from CMR godown total 3275.99 quintals of rice is yet to be lifted whereas actually withdrawal of rice was done. According to the FIR, the responsibility of stored rice was of the petitioner as well as one Sri Durgesh Chandra Prasad. For the alleged misappropriation of rice from the said godown Jamhore P.S. Case No.37/2018 dated 16.04.2018 under Sections 406, 205, 420/34 IPC was lodged.

In the aforesaid case, the petitioner applied for anticipatory bail and he was granted the privilege of anticipatory bail by the learned Additional Sessions Judge-III Court, Aurangabad with a condition that the petitioner shall deposit the difference quantity of rice within eight months in eight installments or at the same time but in case of his failure to do so his bail bond shall be cancelled. This order was passed on 21.05.2018. The petitioner failed to fulfill the condition whereafter he again applied for extension of time which was granted by the learned court vide order dated 19.08.2019. This time again the petitioner failed to fulfill the condition.



It has been pointed out to this Court from the impugned order that the learned A.C.J.M.-III, Aurangabad issued notice on 03.02.2022 to the petitioner calling upon him to show cause as to why his bail bond should not be cancelled but the petitioner did not appear in the court below. The learned court granted final time to the petitioner but despite service of notice he did not appear in the court. Under these circumstances, if the bail bond of the petitioner has been cancelled, no fault may be found with the impugned order.

Having heard learned counsel for the petitioner, learned counsel for the Corporation and learned counsel for the State as also upon perusal of the records, this Court finds that in this case the FIR was lodged in the year 2018 and privilege of anticipatory bail was granted to the petitioner subject to certain conditions but the petitioner did not fulfill those conditions. The allegations are serious in nature and under such circumstances even after granting indulgence to the petitioner by way of extension of time by the learned court below if the petitioner has not come forward to abide by the conditions and then also ignored the notice issued by the learned court below, this Court would not exercise its extraordinary writ jurisdiction to interfere with the impugned order.



No illegality or infirmity may be found in the impugned order as contained in Annexure-1. This application is dismissed.

(Rajeev Ranjan Prasad, J)

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