

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18991 of 2022

Arising Out of PS. Case No.-60 Year-2015 Thana- JAGDISHPUR District- Bhojpur

SANTOSH KUMAR Son of Baban Singh @ Baban Mahto Resident of Village - Khadra Tola (Harigaon), P.S.- Jagdishpur, District - Bhojpur, Proprietor of Maa Vindhawashni Mini Rice Mill, Khadra Tola, Post - Dawa, P.S.- Jagdishpur, District - Bhojpur at Ara.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The District Manager, Bihar State Food Corporation, Bhojpur at Ara. Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Manoj Kumar Singh, Advocate
For the Opposite Party/s	:	Mr.Parmeshwar Mehta, APP
For BSFC	:	Mr. Shailendra Kr. Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

6 04-01-2023 Heard the learned counsel for the petitioner and the learned APP for the State.

The petitioner seeks regular bail in connection with Jagdishpur PS case no. 60 of 2015 instituted for the offences punishable under Sections 406, 420, 409, 120(B) of the Indian Penal Code read with Section 7 of Essential Commodities Act.

The case of the prosecution in brief is that the petitioner's rice mill namely Maa Vindhawashini Rice Mill had received total 4050 quintal of paddy on various dates and he had to supply 67% i.e. 2713.50 quintals of C.M.R. to Food Corporation of India, Bhojpur, however, the petitioner supplied



only 270 quintals, thus leading to a deficit of 2443.50 quintals, valued at a sum of Rs. 52,91,545.86. Thus, it is alleged that the petitioner has defalcated Govenment money to the tune of Rs. 52,91,545.86 by selling the balance C.M.R. in the open market.

The learned counsel for the petitioner submits that the petitioner is innocent, has been falsely implicated in the present case, he is having a clean antecedent and is languishing in custody since 19.10.2021. At the outset, the learned counsel for the petitioner has submitted that the petitioner is ready and willing to deposit bank guarantee for a sum of Rs. 52,91,545.86/-, if not already deposited, hence he be granted bail.

Per contra, the learned counsel appearing for the Bihar State Food Corporation of India and the learned APP for the State has referred to the judgments/ orders, rendered by the Hon'ble Apex Court, which are annexed to the counter affidavit filed in the present case on behalf of opposite party no. 2 to submit that either the petitioner has to deposit the aforesaid sum of Rs. 52,91,545.86/- or furnish bank guarantee of the said amount for the purposes of grant of bail.

Having regard to the facts and circumstances of the



case, considering the submissions made by the learned counsel for the parties and taking into account the materials available on record as also considering the various orders/ judgments passed by the Hon'ble Apex Court from time to time in S.L.P. (Crl.) no. 1779 of 2016, I deem it fit and appropriate to dispose off the present petition with a direction that in case, the petitioner furnishes proof of deposit of bank guarantee to the tune of Rs. 52,91,545.86 with the opposite party no. 2, before the learned court of Judicial Magistrate 1st class/ Special Court, Patna in connection with Jagdishpur PS case no. 60 of 2015, the learned court below shall enlarge the petitioner on bail, subject to such conditions as may be deemed fit and proper to be imposed by the learned court below.

It is needless to state that the petitioner shall be obliged to keep the bank guarantee alive till the conclusion of the trial.

(Mohit Kumar Shah, J)

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