

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44898 of 2024

Arising Out of PS. Case No.-155 Year-2013 Thana- AMAS District- Gaya

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Harendra Nath Dubey Son of Late Hari Shankar Dubey RESIDENT OF
VILLAGE- SAHIYAR, P.S.- SAHIYAR , DIST- BUXAR ,BIHAR

... .. Petitioner/s

Versus

1. The State of Bihar BIHAR
2. Kamlesh Pd. Singh Son of Late Moti Singh In-Charge Assistant Manager.
State Food Corporation, Sherghati, Gaya

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. M.N. Parbat, Sr. Adv. Mr.Praveen Prabhakar
For the Opposite Party/s	:	Mr.Parmeshwar Mehta

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

7 06-12-2024 1. Heard the parties.

2. The petitioner apprehends his arrest in connection with
Amas P.S. Case No. 155 of 2013 dated 22.11.2013 registered
under Sections 409, 420 / 34 of the I.P.C.

3. As per the prosecution case 23946.70 quintal of paddy was
lifted by the rice miller as per the agreement and during that
period the petitioner was posted as District Manager, B.S.F.C.,
Gaya. Miller was required to supply 67% CMR equivalent to
16044 quintal but the rice miller failed to meet the supply of
CMR. The S.D.O., Sherghati after enquiry submitted his report
mentioning therein that when he visited the rice mill, the same
was found closed and its owner was absent and workers



informed that the named accused Dhirendra Kumar Singh, proprietor of M/s Kumar Rice Mill resides at Ranchi. The agreement for milling paddy was executed for the procurement year 2012-2013 and in terms of the said agreement the miller had to furnish bank guarantee equivalent to price of paddy taken by him for milling and had to deposit CMR in time before taking next lot of paddy.

4. Mr. M.N. Parbat, learned senior counsel for the petitioner submits that petitioner is not named in the F.I.R. The miller is named in the first information report and the entire allegation as per the F.I.R. is against the miller, who misappropriated the amount of Rs. 3,48,44,872.65/- inasmuch as he after receipt of the paddy did not supply the CMR / rice to the B.S.F.C. It was the petitioner on whose direction the F.I.R. was lodged against the miller. The miller took a defence that the B.S.F.C. was not accepting the rice, however, an enquiry was conducted by the S.D.O., who submitted his report that mill in question was closed and the miller was found absent. The petitioner is a retired I.A.S., who superannuated from the post of Secretary, Panchayat Raj on 03.01.2022. The petitioner was earlier made accused in connection with Civil Line P.S. Case No. 327 of 2017 registered for the offence under Sections 467, 409, 120B,



34 I.P.C. in which he was granted bail by this Court after enquiry that allegation against him regarding transportation of paddy through light vehicle was found not correct. The petitioner has been made accused during the course of investigation merely on the basis of the fact that M/s Kumar Rice Mill had no capacity to process the quantity of paddy which was allotted to it and on that basis petitioner has been said to be a conspirator. Learned counsel produced a letter of selection of the rice miller. According to learned counsel the rice miller is selected by the District Magistrate and after selection the same is informed to the petitioner. The petitioner has no direct role in the selection of the rice miller.

5. No one appears for the B.S.F.C.

6. Learned counsel for the State opposed the prayer for bail.

7. A counter affidavit has been filed by the B.S.F.C. stating that as per the report dated 23.12.2023 at Annexure-6 and investigation by the Police Officer the petitioner has been made accused in this F.I.R. due to the fact that he did not perform proper duty with full responsibility to collect / record equivalent / CMR within the cut off date. The co-accused rice miller has been granted anticipatory bail by this Court in Cr. Misc. No. 52976 of 2013 vide order dated 11.03.2014 on consideration of



the undertaking and submission that his immovable properties to the value of Rs. 07 Crore was lying with the prosecution as security and same may be liquidated.

8. Having regard to the submission made by the parties, taking into consideration the fact that petitioner is not named in the F.I.R., he has been made accused during investigation and the co-accused named in the F.I.R. has been granted anticipatory bail by this Court, I am inclined to grant anticipatory bail to the petitioner.

9. Let the petitioner, above named, be released on anticipatory bail in the event of arrest or surrender before the court below within a period of four weeks from today on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of Mrs. Sanam Heyat, learned Judicial Magistrate, Special Court Rice Millor's, Gaya in connection with Amas P.S. Case No. 155 of 2013 subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

(Anil Kumar Sinha, J)

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