

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.14690 of 2016

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1. Brajesh Kumar Tiwary Son of Late Birendranath Tiwary resident of village and Police Station - Koran Sarai, District - Buxar, Bihar

.... Petitioner/s

Versus

1. The State of Bihar
2. The Bihar State Food and Civil Supplies Corporation Ltd., Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. K.N. Choubey, Sr. Advocate,
Mr. Ashok Kumar Garg, Advocate
Mr. Ritu Priyadarshi, Advocate
Mr. Dineshwar Pandey, Advocate
Mr. Animesh Kumar, Advocate
Mr. Hema Yunus, Advocate.

For the B.S.F.C. : Mr. Shailendra Kr. Singh, Adv.

For the Opposite Party/s : Mr. Gajendra Prasad Yadav (App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 30-11-2016 The present application has been filed for modification of order dated 26.06.2015 passed in Cr. Misc. No. 23824 of 2015 to the extent of extending the period of deposit of 20% of the alleged due amount, but now it is submitted that 20% of the alleged due amount has already been deposited.

The brief facts of the case is that the petitioner being rice miller entered into an agreement with the Bihar State Food and Civil Supplies Corporation Limited under which received 25311.90 quintals of paddy and petitioner was supposed to supply 16958.97 quintals custom milled rice, but the petitioner supplied only 6001.09 quintals of processed rice and failed to supply 10957.88 quintals of processed rice and



thereby misappropriated Rs. 2,08 ,54,267.

On the submission of learned counsel for the petitioner that the petitioner is ready to deposit 20% of the alleged due amount within nine months, the petitioner was granted provisional anticipatory bail for ten months vide order dated 26.06.2015. The provisional bail was to be confirmed by learned court below on deposit of 20% of the alleged due amount. Subsequently, the petitioner preferred Cr. Misc. No. 36190 of 2015 for modification of the order dated 26.06.2015, passed in Cr. Misc. No. 23824 of 2015 for waiving the condition to deposit 20% of the alleged due amount. But this Court declined to consider the prayer of the petitioner and the said modification application was disposed of vide order dated 19.08.2015. The petitioner challenged the said order in Special Leave to Appeal No. 18512 of 2015, which is also dismissed by the Apex Court vide order dated 16.11.2015.

It is submitted by learned counsel for the petitioner that now the petitioner has deposited 20% of the alleged due amount and the bail bonds of the petitioner have not been cancelled till date. Though, statement to that effect has not been made in the petition.

It is submitted by Mr. Shailendra Kumar Singh, learned counsel for the Bihar State Food and Civil Supplies Corporation Limited that as per the instruction received from the District Manager of Bihar State Food and Civil Supplies



Corporation, Buxar, the petitioner has already deposited 20% of the alleged due amount.

In the circumstances, the order dated 26.06.2015 is modified to the extent that provisional bail of the petitioner is extended till 19th of December, 2016.

The learned court below will pass appropriate order for confirming the provisional bail of the petitioner on filing proof of deposit of 20% of the alleged due amount.

However, this Court is not inclined to consider in the present modification application the submission of learned senior counsel with regard to merit of accusation. The petitioner is at liberty to raise all such contentions at the appropriate stage of proceeding.

Accordingly, this modification application is disposed of.

(Dinesh Kumar Singh, J)

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