

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.49833 of 2014

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1. Nand Kishore Jha Son of Late Kamlakant Jha resident of village - Bara, P.S. Bihra, District - Saharsa.
 2. Vidhan Chandra Rai S/o Dudhar Rai resident of village - Bara, P.S. Bihra, District - Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Subodh Kumar Jha

For the Opposite Party/s : Mr. Kalyan Shankar (App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

8 27-01-2016

The present application has been filed for modification of the order dated 29.08.2012 passed in Cr. Misc. No. 22820 of 2012 and order dated 30.10.2013 passed in Cr. Misc. No. 36756 of 2013, to the extent of confirming the provisional bail granted to the petitioners in connection with Nawhatta P.S. Case No. 86 of 2010 registered under Sections 408, 409, 120B of the Indian Penal Code.

The accusation is of non-adjustment of Rs. 1,95,84,940/- being advanced to 26 government employees including the petitioners for execution of government schemes between March, 1996 to 2007 which was detected during audit objection.

The petitioners were granted provisional anticipatory bail for one year when learned Court below was supposed to issue notice to the informant who was supposed to

verify the actual advance still remained with the petitioners and supply the demand notice of balance amount still lying with the petitioners when the petitioners were supposed to return the balance amount within a period of tree months on receipt of the demand notice.

It appears that the order dated 29.08.2012 passed in Cr. Misc. No. 22820 of 2012 was modified vide order dated 30.10.2013 passed in Cr. Misc. No. 36756 of 2013 when the provisional bail of the petitioners was extended for a further period of nine months which was to be confirmed by learned Court below if the petitioners were to be able to return the balance amount, if any, or if no demand notice was to be supplied by the informant within a period of one month of appearance of the informant before learned Court below.

It is submitted by learned counsel for the petitioners that the authority concerned was directed to calculate the due amount after deducting the adjusted amount but no demand notice was issued to the petitioners and petitioners are old persons. Hence, prayer is made for confirmation of provisional bail.

Considering the fact that for modification of the order dated 30.10.2013 passed in Cr. Misc. No. 36756 of 2013, the present modification application has been filed on 10.12.2014, this Court is not inclined to interfere.

However, considering the nature of

accusation and the fact that the informant has not taken any initiative to supply the demand notice, it is a case for consideration of prayer for regular bail, if the petitioners surrender within a period of six weeks in connection with Nawhatta P.S. Case No. 86 of 2010, pending in the Court of learned Chief Judicial Magistrate, Saharsa.

With the observations above, the modification application stands disposed of.

(Dinesh Kumar Singh, J)

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