

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.18728 of 2017

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1. Pramod Kumar son of Surendra Prasad Singh Resident of Village- Barhi Bigha, Police Station- Hilsa, District- Nalanda. The then posted as Statistical Officer, Tekari Block, Police Station- Tekari, District- Gaya. presently posted as Statistical Officer, Roh Block, P.S.- Roh, District- Nawada.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Bihar State Food Corporation Limited through its Managing Director, Khadya Bhawan, Daroga Rai Path, Patna.
3. Sh. Kamlesh Prasad, S/o Late Moti Singh, R/o Village+P.O.- Newari, P.s.- Makhdumpur, District- Jehanabad the then Assistant Manager, Tekari, District Food Corporation Office, Gaya, Presently posted as Assistant Manager, Fatehpur Block under the District Gaya.

.... Opposite Party/s

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Appearance :

For the Petitioner	:	Mr. Bishnu Kant Dubey Mr. Arun Kumar Singh
For the State	:	Mr. S.M. Rahman
For the BSFC	:	Mr. Harish Kumar

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER**

3 12-07-2017 Heard learned Counsel for the parties
concerned.

By order, dated 24.10.2016, the petitioner was allowed anticipatory bail in view of an undertaking given on his behalf that he will deposit the amount allegedly misappropriated by him within a period of six months.

The petitioner is on bail by virtue of the said order. He, however, did not deposit the amount of Rs. 14,13,342.70/-, as undertaken on his behalf.



This application has been filed seeking recall/modification of the said order, dated 24.10.2016, passed in Criminal Misc. No. 42400 of 2016, and a plea is, now, being taken that since the petitioner is not involved in the case, he should not be compelled to honour the undertaking given on his behalf. It is also the case of the petitioner that the said undertaking was given on his behalf by learned Counsel without his consent or instruction.

I am not inclined to entertain the plea for more than one reason. Firstly, the petitioner availed the benefit of the said order, dated 24.10.2016, by getting himself released on bail. On the date, when he was being released on bail by virtue of the order of this Court, dated 24.10.2016, he was knowing that there was an undertaking given on his behalf in the background of which he was granted anticipatory bail. Had it been his case that he had not instructed his Counsel to make such undertaking, he would not have availed the privilege of the said order, dated 24.10.2016 and he could have immediately approached this Court, without being released on bail. The conduct of the petitioner, in blaming his Counsel seeking modification after having been released on bail, is reprehensible.

Mr. Bishnu Kant Dubey, learned Counsel for the



petitioner, has submitted that the petitioner has, in fact, not committed any offence, as alleged against him.

The Court cannot go into that aspect of the matter in the present application seeking modification since that will amount to review of the earlier order, dated 24.10.2016, which is not permissible in law.

This application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

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