

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41505 of 2017

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Surya Kumar Sah son of Rajendra Prasad resident of Mohalla - Khetari,
Nehru Nagar, South of Jail, Ara Police Station - Ara, District - Ara.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The District Manager, Bihar State Food and Civil Supplies Corporation,
Rohtas, Sasaram, District - Rohtas, Sasaram.
3. Anil Kumar Son of Mahendra Prasad Sah Proprietor of M/S Ganesh
Galla Bhandar Lessee Lakshman Jee Rice Mill, Natwar, Resident of Village
Natwar, Post and Police Station - Natwar, District Rohtas.

.... Opposite Party/s

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Appearance :

For the Petitioner	: Mr. Anand Kumar Ojha, Advocate.
For the Opposite Party	: Mr. Shyameshwar Dayal, APP.
For the BSFC	: Mr. Shailendra Kumar Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

4 01-11-2017 Heard both sides.

2. The petitioner Surya Kumar Sah filed this petition
for modification of the order dated 17.12.2015 passed in Cr. Misc.
No. 36858 of 2015 by which one Anil Kumar was granted
anticipatory bail, but at the same time the Principal Secretary,
General Administration Department as well as the District
Magistrate, Rohtas were directed to take appropriate action in
accordance with law against Surya Kumar Sah, the informant of
Natwar P.S. Case No. 20 of 2013.

3. The petitioner lodged Natwar P.S. Case No. 20 of
2013 against Manoj Kumar, the Proprietor of Vindhvasani Galla



Bhandar, Lessee Ambika Jee Modern Rice Mill, Natwar and Shri Anil Kumar, Proprietor of Ganesh Galla Bhandar Lessee Laxshman Jee Rice Mill, Natwar. The petitioner alleged that while he was working as In-charge of Purchase Centre, Natwar, Rohtas in the year 2011-12 at Natwar Purchase Centre he purchased paddy and handed over the paddy to M/S Vindhvasani Galla Bhandar, Lessee Ambika Jee Modern Rice Mill, Natwar and M/S Ganesh Galla Bhandar Lessee Laxshman Jee Rice Mill, Natwar to Manoj Kumar and Anil Kumar and their representatives. The petitioner handed over 1,10,000/- quintals of paddy to Manoj Kumar and his representatives, but Manoj Kumar and his representatives accepted to receipt only 80,000/- quintals paddy from the Purchase Centre and Manoj Kumar and his representatives are denying to have received 30,000/- quintals of paddy from the Purchase Centre. The price of 30,000/- quintals comes to Rs. 3,24,00,000/- (Three Crore and Twenty Four Lacs). The petitioner further alleged in the FIR that he has also handed over 53,000/- quintals of paddy to M/S Ganesh Galla Bhandar Lessee Shree Laxshman Jee Rice Mills, but Laxshman Jee Rice Mills returned rice of only 38,000/- quintals of paddy and the Proprietor of Laxshman Jee Rice Mills misappropriated 15,000/- quintals of paddy and the price of which comes to Rs.



1,62,00,000/- (One Crore Sixty Two Lacs).

4. Manoj Kumar, the Proprietor of Vindhavasani Galla Bhandar filed Cr. Misc. No. 18917 of 2015 and a Bench presiding by Hon'ble Mr. Justice Mihir Kumar Jha vide order dated 16.09.2015 after hearing learned counsel for the petitioner Manoj Kumar and learned counsel appearing on behalf of Bihar State Food and Civil Supplies Corporation, granted anticipatory bail to Manoj Kumar, but at the same time on the facts submitted by the parties found that Suraj Kumar, Store-cum-Purchase Centre In-charge, Natwar is, in fact, liable for the amount said to be due and allegedly misappropriated by the millers and the Court further ordered and directed the Corporation to take appropriate action against the erring officials including Mr. Suraj Kumar for recovery of the dues amount in the FIR by taking appropriate steps in accordance with law for the recovery of the amount involved in this FIR. Thereafter, Anil Kumar, the Proprietor of Ganesh Galla Bhandar Lessee Laxshman Jee Rice Mill, Natwar filed Cr. Misc. No. 36858 of 2015, which was heard by this Court and Anil Kumar was granted anticipatory bail.

5. Learned counsel for the B.S.F.C. submitted that in spite of the order passed by this Court in Cr. Misc. No. 18917 of 2015, the authority did not take any steps in accordance with law



against the erring officials who are alleged to have misappropriated huge amount of paddy worth more than of Rs. 4 Crores and the erring officials was promoted to the higher posts. On such submission, this Court directed the concerned authority to take appropriate steps in accordance with law for realizations of the alleged misappropriated amount of paddy from the erring officials.

6. Shri Anand Kumar Ojha, learned counsel appearing on behalf of the petitioner submits that from perusal of Annexure-5, it would appear that the authority issued notice for realizations of the amount stating that this Court vide order passed in Cr. Misc. No. 36858 of 2015 directed to realize the amount and also take departmental action against the erring officials. On such submission, Shri Anand Kumar Ojha, learned counsel for the petitioner submits that part of the order be modified.

7. Heard Shri Shailendra Kumar Singh, learned counsel for the B.S.F.C. and learned APP for the State.

8. Having considered the submissions and on perusal of records of the order passed in Cr. Misc. No. 18917 of 2015 and Cr. Misc. No. 36858 of 2015, it appears that while the coordinate Bench of this Court was hearing the petition for grant of anticipatory bail to Manoj Kumar, learned counsel appearing on



behalf of Bihar State Food and Civil Supplies Corporation on the basis of the documents, submitted that huge amount of paddy was not misappropriated by the millers namely Manoj Kumar and Anil Kumar rather the Store-cum-Purchase Centre In-charge, Natwar namely Mr. Suraj Kumar, the petitioner misappropriated the amount and accordingly vide order dated 07.09.2015 passed in Cr. Misc. No. 18917 of 2015 a direction was given to the concerned authority to take appropriate action against the erring officials. While I was hearing the bail petition of Anil Kumar in Cr. Misc. No. 36858 of 2015, learned counsel for the B.S.F.C pointed out that in spite of the order of this Court in Cr. Misc. No. 18917 of 2015, the concerned authority did not take any action in accordance with law and, therefore, this Court issued notice to the Principal Secretary, General Administration Department as well as the District Magistrate, Rohtas and in pursuance thereof action was taken. This Court did not make any conclusive finding that the petitioner, the informant of Natwar P.S. Case No. 20 of 2013, defalcated the amount. Any observation made in the order is only to the extent that appropriate action be taken against the officials who is alleged to have misappropriated the amount and the same cannot be taken as a finding recorded by this Court. The petitioner shall be at liberty to raise all the points during departmental



enquiry as well as when the case is instituted for realizations of the so-called amount alleged to be misappropriated by the petitioner. It is also pointed out that the petitioner also filed modification of the order dated 16.09.2015 passed in Cr. Misc. No. 18917 of 2015 in Cr. Misc. No. 1700 of 2017, but the same was dismissed vide order dated 12.04.2017.

9. Having considered the facts aforesaid, I dispose of this modification petition with the aforesaid observation that any finding made in the bail order shall not prejudice the case of the petitioner, informant of Natwar P.S. Case No. 20 of 2013 and, he shall be at liberty to take any defence available to him.

(Prabhat Kumar Jha, J)

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