

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.15133 of 2017

Arising Out of PS.Case No. -3 Year- 2015 Thana -C.B.I CASE District- PATNA

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Shri Dharmadeo Kumar, Son of Late Shri Ram Jamun Das, Resident of
Quarter No. 204, Railway Quarter, New Colony, P.O.+P.S. Khagaul,
Danapur, District- Patna.

.... Petitioner

Versus

The Central Bureau of Investigation

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Pranav Kumar

For the Opposite Party/s : Mr. Bipin Kumar Sinha (Sc,Cbi)

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**CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR
MISHRA**
ORAL ORDER

5 26-07-2017 Heard learned counsel for the petitioner and the learned
counsel appearing on behalf of the C.B.I.

The petitioner apprehends his arrest in connection with
C.B.I. F.I.R. No. RC0232015A0003, registered under Sections 120-B,
409 and 420 of the Indian Penal Code and Section 13(2), 13(1),(C) and
(d) of the Prevention of Corruption Act.

The accusation is that in course of enquiry, it was found
that petitioner being the Chief Goods Supervisor, E.C. Railway,
Fatuha used to allow the delivery of goods to the parties without
payment of the wharfage charges resulting into heavy outstanding
amount against the parties. On scrutiny of records, it revealed that
during the period of January, 2014 to January, 2015 an outstanding
amount of Rs. 5,16,522 as wharfage charges is due to the railways
along with Rs. 5,394/- as service tax. On enquiry, it was also detected



that Money receipt bearing No. 403029 for amount of Rs.2,63,211/- and Money receipt bearing No. 403030 for amount of Rs. 27,223/- was issued to M/s. Shivam Sales without taking payment from them. The waiver application of M/s. Shivam Sales was forwarded by the petitioner. The entries of cash book showed that the party actually made the payment later on after approx one month. As such, the petitioner caused loss of Rs. 3,72,415/- and the said amount was not deposited in the Railway Booking Office, Fatuha by this petitioner and hence he misappropriated the said money.

Learned counsel for the petitioner submits that as far as first allegation is concerned, in the year 2013, East Central Railway came out with an office order dated 18.06.2013 issued under the signature of Sr. Divisional Commercial Manager that there is no requirement of collecting demurrage charge before the submission of waiver application and accordingly prepayment of demurrage charge was cancelled with immediate effect. However, the E.C. Railway through another office order dated 19.05.2014 came out with a new direction that from 01.06.2014 the demurrage charge should be collected before the submission of waiver application. As such, due to lack of knowledge of implementation of new office order dated 19.05.2014 the petitioner under wrong impression submitted the waiver application and collected the said amount after that and has not caused any financial loss to the railway. As far as the second allegation that the petitioner without receiving to payment to the parties with



regard to wharfage charge allowed the delivery of goods causing loss Rs. 5,16,522/- along with Rs. 5,394/- as service tax is partially incorrect. In fact, the petitioner is only liable for wharfage charges amounting to Rs. 3,07,928/- and the rest amount has to be recovered from the predecessor, who was working in place of the petitioner. The said amount has already been deducted from the salary of the petitioner.

Learned counsel appearing on behalf of C.B.I. submits that the money, which is said to be deposited by the petitioner on deducting to his salary is another matter. In the present case during investigation it has come that the petitioner caused damage of demurrage charges of Rs. 1,10,250/- as detailed in the Chargesheet.

Learned counsel for the petitioner submits that petitioner is ready to pay Rs. 1,10,250/- on protest within 3 months.

Having regard to the facts and circumstances of the case, let the above named petitioner, be released on provisional bail in the event of his arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of Special Judge CBI-III, Patna, in connection with C.B.I. F.I.R. No. RC0232015A0003 (Special Case No.04 of 2015 (RC 03A/15) subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

The provisional bail of the petitioner will be confirmed



by the learned Court below on submission of receipt regarding depositing of Rs. 1,10,250/-, in the concerned department in Railway, within a period of three months. If the petitioner fails to furnish the receipt of the deposit of said amount within three months, the trial Court will cancel the bail bond of the petitioner.

(Rajendra Kumar Mishra, J)

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