

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.20866 of 2017

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1. Mohan Upadhyay, M/s Sarvshri Vijaya Rice Mill, Darvan- Ramgarh, Son of Late Shri Niwas Upadhyay, Resident of Village- Darvan, P.S.- Ramgarh, District- Kaimur.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Mishra, Adv

For the Opposite Party/s : Mr. Parmeshwar Mehta, APP

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

3 04-05-2017 Heard learned counsel for the petitioner as well as learned APP.

2. Petitioner was earlier granted anticipatory bail with a condition vide order dated 07.07.2015 under Cr.Misc. No. 22981/2015. On that very moment, it has been pleaded at the end of the petitioner that 25% of the alleged misappropriated amount appertaining to Rs. 22,46,606.08/-(Rs.89,86,424.34/-) is to be deposited at his end for the present and at the time of filing of bail bond, petitioner undertook to deposit Rs. 50,000/- as the first instalment and the remaining instalments were to be paid within ten months, keeping in view the direction of the Court passed in different Cr.Misc.petitions carrying similar kind of allegation. Subsequently thereof, Cr. Misc. No. 22875/2016 was filed at the end of petitioner for modification of aforesaid order asking for



extension of the period of 10 months to another six months and the same was allowed.

3. Again Cr. Misc. No. 20866/2017 has been filed on behalf of petitioner for modification. During midst thereof, as is evident the State of Bihar had gone before the Hon'ble Apex Court against different orders having been passed by this Court giving relaxation to the Millers while granting anticipatory bail/bail and the aforesaid matter came under Special Leave to Appeal (Crl) No. 1779/2016 wherein it has been observed as follows:-

“Since the anticipatory bail/bail was granted more than one year back and financial interest of the State is or can be secured, we are not inclined to cancel the anticipatory bail/bail but modify the order of granting of anticipatory bail/bail conditional adding conditions as follows:

(1) The accused in all the FIR(s), will ensure that bank guarantee, if not furnished, is furnished and if lapsed, is renewed within a period of one month from today failing which the anticipatory bail/bail granted will stand cancelled.

(2) The accused will cooperate with investigation/trial and their failure to appear, when required, will be a ground for cancellation of anticipatory bail/bail. An order of cancellation will be passed by the trial court on being satisfied about such



failure.

(3) The investigation will be completed within a period of three months.

(4) All the accused will be tried only at five places viz. Patna, Gaya, Chhapra, Darbhanga and Purnia by officers of the 27 appropriate rank determined by the High Court within one week from today. The High Court may specify the area of jurisdiction of the said five courts by a public order. If required by the High Court, the State Government may sanction extra strength of officers with requisite infrastructure so that normal work of courts is not disturbed on account of the special arrangement for these cases.

(5) The officers posted will deal with these cases exclusively. If free from their work, any other work may be assigned to the said officers.

(6) The concerned authorities will be at liberty to encash the bank guarantee(s) after holding that there is a breach of terms of the agreement which decision will be subject to appropriate remedies of the parties.

(7) If not otherwise encashed, the bank guarantee will be kept alive till the trial is over. However, deposits/furnishing of bank guarantees will be abide by further orders of the trial court, interim or final.

(8) If any amount is deposited by the accused, the said amount will be adjusted in the amount of the



bank guarantee, which is to be furnished by the accused.

(9) The accused will surrender their passports to the respective courts within a period of four weeks from today and will not leave the country without prior permission from the concerned court.”

4. Learned counsel for the petitioner submits that he does not want to press the instant petition (Cr.Misc.No. 20866/2017), on account thereof, either the petitioner be allowed to withdraw or the same be dismissed as not pressed.

5. The aforesaid prayer of the petitioner, considering the order of the Hon’ble Apex Court having direct impact over the order having been passed under Cr.Misc. No. 22981/2015 and that being so, even considering the prayer of the petitioner, that is not going to give any relief to the petitioner because of the fact that now the order dated 07.07.2015 passed in Cr.Misc. No. 22981/2015 is to pursue in terms of direction having been given by the Hon’ble Apex Court as referred above.

6. That being so, the order dated 07.07.2015 even not prayed on behalf of State for its modification, but as modification prayer is there at the end of petitioner, on account thereof, is directed that the same be modified in terms of condition as laid



down by the Hon’ble Apex Court referred above.

7. In terms thereof, the instant petition is disposed of.

(Aditya Kumar Trivedi, J)

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