

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.29593 of 2017

Arising Out of PS. Case No.- Year- Thana- District- Nalanda

Janardan Prasad @ Janardan Choudhary, Son of Late Yamuna Prasad,
Resident of Village- Gobardhan Bigha, P.S.- Katri Sarai, in the District of
Nalanda.

... .. Petitioner

Versus

1. The State of Bihar.
2. The State of Bihar through the Bihar State Food Corporation.

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr. Braj Nandan Kumar Tiwary, Adv.
For the Opposite Party/s : Mr. Ramchandra Singh, APP.

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 15-11-2017 Heard Mr. Braj Nandan Kumar Tiwary, learned counsel
for the petitioner and Mr. J.N. Thakur, learned APP and Mr.
Shailendra Kumar Singh, learned counsel for Bihar State Food
Corporation.

The present application has been filed for modification of
the order dated 19.04.2017, passed in Cr. Misc. No. 5754 of
2017 to the extent of extending the period of surrender.

The prosecution case got initiated on the written report of
the District Manager, Sheikhpura, Bihar State Food Corporation
alleging that the petitioner being the In-Charge of Paddy
Purchase Centre, Sheikhopur Sarai for the procurement year
2011-12, purchased 9891 quintals of paddy, out of which he
supplied 8693 quintals of paddy on the basis of S.I.O. to the
Miller, but there was shortage of 1198 quintals of paddy, hence,



he has been alleged to have misappropriated the same worth Rs. 15,27,567/-.

Though, initially prayer for anticipatory bail of the petitioner was rejected vide order dated 01.12.2015 passed in Cr. Misc. No. 37113 of 2015 by a co-ordinate Bench of this Court, but subsequently when the prayer for anticipatory bail was renewed vide Cr. Misc. No. 1634 of 2016 on the ground that the petitioner has superannuated from service and is ready to deposit the alleged misappropriated amount, the subsequent application renewing the prayer for anticipatory bail was listed before this Court since the coordinate Bench which had rejected the bail application, was not available due to medical exigency, under such circumstances, the interim order was passed vide order dated 31.03.2016 passed in Cr. Misc. No. 1634 of 2016 by this Court, allowing the petitioner to deposit the entire misappropriated amount. Thereafter the co-ordinate Bench of this Court became available, but declined to hear the matter vide order dated 29.06.2016, which reads as follows:-

“In view of the order dated 31.03.2016, let this case go out of my list to be placed before an appropriate bench after taking necessary orders of Hon’ble the Chief Justice.”

In pursuance to the order dated 29.06.2016 and the minutes of the then Hon’ble Acting Chief Justice dated 05.07.2016, at



flag-'X' to Cr. Misc. No. 1634 of 2016, the matter was placed before this Court. Ultimately Cr. Misc. No. 1634 of 2016 was disposed of vide order dated 20.07.2016 directing the learned Court below to consider and dispose of the application for regular bail preferably on the same day, if the petitioner surrenders within a period of six weeks, since the investigation has concluded and the petitioner has superannuated and has deposited the entire alleged amount of Rs. 15,27,567/-.

It is submitted by learned counsel for the petitioner that the petitioner could not surrender within the stipulated period of six weeks since he could not get suitable bailors. Hence the present application for modification to the extent of extending the period of surrender.

A supplementary affidavit has been filed to the effect that entire amount has already been deposited.

Mr. Shailendra Kumar Singh, learned counsel for BSFC submits that no doubt the petitioner has deposited the entire misappropriated amount and hence, he does not require to file any bank guarantee in view of the order of Supreme Court, but the BSFC has filed a certificate case for realization of interest on delayed deposit of the misappropriated amount.

Considering the rival submissions of the parties, in view of



the confined prayer of the petitioner to the extent of extending the period of surrender only, the period of surrender is extended by three weeks from the date of receipt/production of a copy of this order in connection with Sarai P.S. Case No. 27 of 2015, pending in the court of learned CJM, Sheikhpura.

Accordingly, the present modification application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

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