

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.14474 of 2017

In
Criminal Miscellaneous No.34962 of 2016

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

=====

Raj Ballabh Singh proprietor cum Director of Kishan rice Industries Pvt. Ltd.,
son of Shivnarayan Singh, resident of Village Narsanda, P.O. Narsanda, P.S.
Chandi, District Nalanda

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Bihar State Food and Civil Supplies Corporation through the District
Manager, Nalanda, District Nalanda

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s	:	Mr. Sumeet Kumar Singh Mr. Abhiprav Singh Mr. Anil Kumar Singh
For Opposite Party No.2 :		Mr. Mayank Shekhar
For the State	:	APP

=====

CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

18 28-03-2018 Heard learned counsel for the petitioner, Sri Mayank
Shekhar, learned counsel appearing for opposite party no. 2,
Bihar State Food and Civil Supplies Corporation and learned
APP for the State.

Petitioner seeks modification of the order dated
21.09.2016, passed in Cr. Misc. No. 34962 of 2016 whereby and
whereunder the petitioner undertook to deposit Rs. 20 lakhs
within six months, on which submission pre-arrest bail was
granted to the petitioner in connection with Chandi P.S. Case
No. 132 of 2016, pending in the court of learned Addl. Chief



Judicial Magistrate, Hilsa, Nalanda.

Petitioner was a miller and having been supplied paddy, after dehusking required quantity of CMR rice was not deposited by the petitioner, as such, the petitioner was alleged to have defalcated Rs. 1,21,99,214.93/-.

Petitioner in his modification application submitted that since a certificate proceeding is pending and the Apex Court in S.L.P. No. 1779 of 2016 vide order dated 28.02.2017 had been pleased to dispose of the S.L.P. filed by the Bihar State Food and Civil Supplies Corporation, as such, a sympathetic view may be taken with regard to his undertaking for deposit of Rs. 20 lakhs within the said time frame. He has also brought on record order 08.11.2017 passed by this Court in Request Case No. 211 of 2017 wherein an Arbitrator has been appointed. It is further submitted that since the matter is of defalcation and deposit is subject-matter of arbitration between the parties, hence, the said amount of Rs. 20 lakhs, as directed by order passed by this Court earlier, should be kept in abeyance till final adjudication by the Arbitrator.

However, learned counsel appearing for opposite party no. 2 submits that the petitioner has not honoured his undertaking in one or the other frivolous ground and is trying to delay payment



of Rs. 20 lakhs. He further submits that the said amount was to be deposited by an undertaking given by the petitioner and now he cannot shirk from his responsibility.

Considering the facts and circumstances and that an Arbitrator has already been appointed and the amount, which has to be deposited by the petitioner, has also to be decided by the Arbitrator, let the said deposit of Rs. 20 lakhs be kept in abeyance till the award of the Arbitrator.

Modification application is allowed. Petitioner is at liberty to take recourse of law with regard to his other submissions.

(Nilu Agrawal, J)

Rajesh/-

U		T	
---	--	---	--

