

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.33 of 2018

Arising Out of PS. Case No.-32 Year-2015 Thana- PARASBIGHA District- Jehanabad

Mani Kant Kumar Son of Sri Dilip Sao, Prop. M/S Subh Laxmi Rice Mill,
Resident of Village-Basantpur, P.S.-Parasbigha, District-Jehanabad.

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. District Manager, B.S.F.C. Jehanabad.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajesh Kumar, Adv & Mr.Sanjan Kumar Sharan, Adv
For the State	:	Mr. Ajit Kumar, APP
For the BSFC	:	Mr. Harish Kumar, Adv

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 28-01-2019

Heard parties.

2. This criminal revision petition has been filed against the order dated 17.06.2017 passed in Tr. No. 1869 of 2016 arising out of GR No. 865 of 2015 & Parasbigha P.S. Case No. 32 of 2015 passed by the learned SDJM, Jehanabad.

3. Petitioner who is the owner of M/s Sub Laxmi Rice Mill entered into an agreement with Bihar State Food and Civil Supplies Corporation (hereinafter referred to as the 'Corporation') for milling the paddy and was allotted 13490.40 Quintals of Paddy for the year 2012-13 on the condition that he will hand over 9038.57 Quintals of CMR to the BSFC by 31.12.2013 but petitioner handed over 4590 Quintals of Rice.



4448.57 Quintals of CMR was less which amounted to the loss of Rs. 96,33,645/- to the Corporation. An FIR was filed by the Corporation against petitioner for defalcation and misappropriation of Rs. 96,33,645/- giving rise to Parasbigha P.S. Case No. 32 of 2015 instituted under section 420, 409, 120B of IPC and 7 of the Essential Commodities Act.

4. Petitioner was granted provisional anticipatory bail by this Court vide order dated 22.07.2015 in Criminal Miscellaneous No. 27252 of 2015 subject to the condition that he will submit a bank draft of 20 per cent of the alleged due amount during a period of six months in favour of Bihar State Food and Civil Supplies Corporation, Patna and 20 per cent of said amount was deposited by petitioner and bail was confirmed.

5. Against the order granting anticipatory bail after depositing 20 per cent of the alleged due amount to the Corporation and aggrieved by the said order Informant-Corporation preferred S.L.P before the Apex Court and the conditions for granting anticipatory bail/regular bail was modified and the Apex court directed to furnish 100 per cent bank guarantee against the due amount, failing which the anticipatory bail/regular bail granted will stand cancelled which



was required to be furnished within one month from the date of order and same being not furnished by the petitioner, the bail granted to the petitioner was cancelled by the trial court by its order dated 17.06.2017 which is impugned before this Court in the present revision application.

6. The trial court had cancelled the anticipatory bail granted to the petitioner for his failure to furnish the bank guarantee equal to the defalcated amount by its order dated 28.02.2017. However, subsequent thereto a fresh petition for modification of said order was filed before the Apex Court and the Apex Court modified its earlier order and clarified that the expression bank guarantee which the concerned miller was obliged in terms of agreement in question to furnish and obligation to furnish the bank guarantee and to keep it alive is referable to the terms of agreement. In its order in Clause-e it has been stated that:-

‘We permit the Corporation to secure its interest either by invoking the bank guarantees wherever furnished and or by putting to auction the unencumbered immovable property pledged by the millers with it, after due process of law.’

7. In view of the Supreme Court modifying/clarifying its previous order by its subsequent order dated 13.08.2018, the order passed by the trial court is set aside by which the



anticipatory bail granted to the petitioner was cancelled and trial court is directed to pass a fresh order in the light of order dated 13.08.2018 passed by the Apex Court.

8. The criminal revision petition is allowed to the extent as indicated above.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	06.02.2019
Transmission Date	06.02.2019

