

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15792 of 2020

Arising Out of PS. Case No.-39 Year-2015 Thana- SAKRI District- Madhubani

RAMAN KUMAR JHA Son of Girindra Mohan Jha Resident of Village -
Navtoli, P.S.- Arer, District – Madhubani. Petitioner/s

Versus

The State of Bihar Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Thakur, Adv.

Mr. Shashank Shekhar, Adv.

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

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

3 05-06-2020 Heard learned counsel for the petitioner as well as
learned APP through video conferencing.

2. On account of siphoning as well as
misappropriating milled rice by the petitioner/proprietor of M/s
Maa Durga Rice Mill which was entrusted to him under an
agreement by the Bihar State Food & Civil Supplies
Corporation appertaining to worth of Rs. 4,16,86,308.51/-,
instant case has been registered at the behest of District
Manager, Bihar State Food & Civil Supplies Corporation.
Earlier the matter had sailed up to Hon'ble Apex Court at the
end of State of Bihar for cancellation of bail/anticipatory bail
granted by this Court inflicting certain conditions (depositing of
20% of misappropriated amount) under SLP (Crl) No.
1779/2016 and vide order dated 28.02.2017, though, prayer for
cancellation was refused but, the condition so inflicted by the
High Court has been modified in following way:-

“ Since the anticipatory bail/bail was



granted more that 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 appropriate rank determined by the High Court within one week from today. The High Court may specify the area of the 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.

3. The aforesaid terms and conditions have again been considered under Cr. Appeal No. 998 of 2018 arising out of SLP (Crl) No. 9196/2017 (Arvind Tiwary v. State of Bihar & Anr), wherein at para-20, it has been observed as follows:-

“20. In the circumstances we direct:-

a) The expression Bank Guarantee used in condition No.1 as stipulated in order dated 28.02.2017 passed by this Court pertains to bank guarantee which the concerned miller was obliged, in terms of the agreement in question to furnish. The obligation to furnish the bank guarantee and to keep it alive is referable to the terms of the agreement and not to the defalcated sum as was submitted by the Corporation.

b) If on account of failure to submit and to keep it alive in respect of the defalcated sum, any benefit of bail/anticipatory bail was withdrawn and orders of non-bailable warrants were issued, such orders stand cancelled and recalled. However the concerned millers ought to have furnished and kept alive bank guarantees as contemplated in terms of the agreement. If there be any failure on this count the cancellation of bail/anticipatory bail was perfectly justified.

c) The order dated 28.02.2017 passed by this Court would apply to every single case, irrespective whether the concerned miller was a party to the proceedings before this Court or not.

d) If any miller, in terms of the order dated 28.02.2017, had not furnished bank guarantee or



had not kept it alive in terms of his obligations under the agreement, the facility of bail/anticipatory bail would not be available to him. The orders cancelling such facility stand confirmed and the challenge in that behalf is negated. All such millers shall be immediately taken in custody by the concerned Police.

e) 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.

4. Consequent thereupon, petitioner, RAMAN KUMAR JHA is directed to be released on bail on furnishing bail bond of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of Judicial Magistrate-1st Class, Special Court, Darbhanga in connection with Sakri PS Case no. 39/2015, along with the terms and conditions so imposed by the Hon'ble Apex Court as referred hereinabove.

5. The learned lower court is directed to issue release order only after having compliance of the terms and conditions inflicted by the Hon'ble Apex Court as referred hereinabove.

(Aditya Kumar Trivedi, J)

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