

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL MISCELLANEOUS No.19810 of 2020**

Arising Out of PS. Case No.-134 Year-2015 Thana- SHIVSAGAR District- Rohtas

Prithvi Narayan Singh, son of Kulbansh Singh, Proprietor of Shankar Mini Rice Mill, Beda, Resident of Village- Morkap, P.O.- Shivsagar (Baddi O.P.), District- Rohtas.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. District Manager, Bihar State Food and Civil Supplies Corporation, Rohtas at Sasaram, District- Rohtas

... .. Opposite Party/s

**Appearance :**

|                      |   |                                      |
|----------------------|---|--------------------------------------|
| For the Petitioner/s | : | Mr.Sumeet Kumar Singh, Advocate      |
| For the State        | : | Mr.Damodar Prasad Tiwary, APP        |
| For the BSFC         | : | Mr. Shailendra Kumar Singh, Advocate |

**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**

ORAL ORDER

**I.A. No.2 of 2020**

7      21-07-2020

In this interlocutory application, a prayer has been made to delete paragraph 27 page 17 of the bail petition and substitute the same with paragraph 5 of the present interlocutory application.

Accordingly, this interlocutory application is allowed and the averments made in paragraph 27 page 17 of the bail petition is deleted and substituted by the averments made in paragraph 5 of the interlocutory application.

**Cr. Misc. No. 19810 of 2020**

Heard learned counsel for the petitioner and learned counsel for the State as also counsel for the opposite party no.2.

In this case, the petitioner is seeking bail in



connection with G.R. No. 1219 of 2015, Tr. No. 472 of 2020 arising out of Shivasagar (Baddi) P.S. Case No. 134 of 2015 registered for offences under sections 409, 420 of the Indian Penal Code.

Learned counsel for the petitioner submits that as per order of the Hon'ble Apex Court dated 29.11.2019 passed in Cr. Appeal No. 1803 of 2019, the benefit of order dated 13.8.2018 has been extended and, thereby, the last order passed by this Court dated 26.9.2018 in Cr. Misc. No. 58892 of 2018 has been modified but, the court below has wrongly recorded the finding that the appeal filed by the petitioner has been rejected though he has been granted the benefit.

From the fact, it appears that the petitioner owes Rs. 47,96,000/- and, for the first time, he has moved for bail in Cr. Misc. No. 609 of 2017 and, this Court vide order dated 2.2.2017 granted bail with a condition that he will deposit Rs. 2,96,000/- by way of first installment on or before 3<sup>rd</sup> March, 2017 and, accordingly, he was granted provisional bail with a condition that he will deposit rest of the amount of Rs. 45,00,000/- in nine equal installment of Rs. 5,00,000/- each or before 15<sup>th</sup> of each month starting from April, 2017 and on failure of deposit of any installment, the bail bond will be



canceled. The petitioner deposited Rs. 2,96,000/- whereafter he failed to comply the order of this Court and, thereafter, he again moved this Court in Cr. Misc. No. 36885 of 2017 making a prayer for modification of the order dated 2.2.2017 as he is languishing in jail custody since 19.10.2016 and he requested that the petitioner be directed to sell the property which has been placed before the B.S.F.C.

In view of the aforesaid submission, the petitioner was left open that he may apply to the B.S.F.C. to sell the property and deposit the amount, whereafter again he filed an application being Cr. Misc. No. 58892 of 2015 and, this Court vide order dated 26.9.2018 disposed of the same. In that case, he has drawn attention of this Court towards the order passed in Cr. Appeal No. 998 of 2018 (Special Leave Petition (CRL.) No. 9196 of 2017) but, the petitioner could not find favour and the same was rejected on the ground that he had given an assurance but, he failed to comply the same.

Again vide order dated 26.9.2018 passed in Cr. Misc. No. 58892 of 2018, the petitioner moved before the Hon'ble Apex Court in SLP (Crl.) No. 9503 of 2019 requesting that the order passed by this Court has not granted relief in terms of the order passed by the Hon'ble Apex Court in its order



dated 13.8.2018 passed in Cr. Appeal No. 998 of 2018 in the Special Leave Petition (Crl.) No. 9196 of 2017. Accordingly, the Hon'ble Apex Court modified the order of this Court dated 26.9.2018 passed in Cr. Misc. No. 58892 of 2018 and granted relief in terms of the aforesaid order of the Hon'ble Apex Court.

In terms of the order passed by the Hon'ble Apex Court, the petitioner filed an application before the learned Sessions Judge for granting relief in terms of the order passed by the Hon'ble Apex Court but, as per petitioner, he misdirected himself and has given wrong finding that the application filed before the Hon'ble Apex Court has been rejected but, in fact, it was allowed.

Learned counsel for the B.S.F.C. submits that already the petitioner has given an undertaking for deposit of the money by sale of his property which has been placed to the B.S.F.C. but, he failed to do so.

This Court fails to understand that when second time the Hon'ble Apex Court has granted relief to the petitioner that he will also be entitled to the benefit in terms of the order dated 13.8.2018, in such circumstances, he cannot be denied the same. Accordingly, this application is allowed to the extent that he will be granted bail with a condition that the B.S.F.C. will



have liberty to realize the money either through bank guarantee or the B.S.F.C. will auction sale the property placed to it and, in that circumstances, the petitioner undertakes that he will not raise any frivolous objection for auction sale of the property.

Let the B.S.F.C. should act upon as per the order of the Hon'ble Apex Court and realize the amount as per direction mentioned therein.

Accordingly, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Court of Rice Millers-cum-Judicial Magistrate, 1<sup>st</sup> Class, Gaya in connection with G.R. No. 1219 of 2015, Tr. No. 472 of 2020 arising out of Shivasagar (Baddi) P.S. Case No. 134 of 2015, subject to the condition that one of the bailors shall be a close relative of the petitioner and the petitioner would cooperate the proceeding of the court below. In event of failure to appear on two consecutive dates, the court below will be at liberty to pass the order, including cancellation of bail bonds.

**(Shivaji Pandey, J)**

V.K.Pandey/-Rishi

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