

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57052 of 2019

In
CRIMINAL MISCELLANEOUS No.5121 of 2019

Arising Out of PS. Case No.-277 Year-2018 Thana- MAKHDUMPUR District- Jehanabad

BIRENDRA YADAV S/o Late Sahdeo Yadav R/o village- Kachnawan, P.S.-
Makhdumpur, District- Jehanabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sunil Kumar, Advocate

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

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL ORDER

4 31-08-2022 Heard learned counsel for the parties.

This modification application has been filed for modification of order dated 18.02.2019 passed in Cr. Misc. No. 5121 of 2019, by which petitioner was granted provisional bail on condition that he will deposit Rs. 6,00000/- (six lacs) within six months from the date of his provisional release.

Petitioner was made accused in connection with Makhdumpur P.S. Case No. 277 of 2018 under sections 409, 420, 424/120- B of the Indian Penal Code. Informant is Block Co-operative extension Officer Makhdumpur alleging therein that in Kharif marketing year 2017-18 Kachnawan PACS procured 2410 quintals paddy against which he had to deposit CMR rice 1620 quintals at SFC centre but only 810 quintals CMR rice was deposited and rest 800 quintals CMR rice worth

Rs. 18,74,012/- was not deposited by Kachnawan PACS for which FIR was lodged against the PACS Chairman and PACS Manager.

Defence of petitioner was that no amount has been defalcated and due to non-upliftment of paddy in the rainy season, the paddy kept in godown was damaged and in spite of repeated request, neither miller nor any government agency took steps for removing the paddy from the godown of PACS.

From the records, it appears that petitioner deposited Rs. 6,00000/- (six lacs); (Rs. 3,00,000/- on 04.09.2018 and Rs. 3,00000/- on 07.09.2018) in PACS account of Kachnawan PACS) and petitioner was in jail from 23.11.2018 and was directed to be provisionally released on bail subject to payment of Rs. 6,00000/- (six lacs) within six months from the date of his release.

It is submitted on behalf of petitioner that after his release from jail, he managed to deposit Rs. 2,00000/- (two lacs) but for the reasons stated in this modification petition, he is unable to deposit remaining four lacs of rupees, as undertaken by him before this Court and he is not in a position to deposit more than rupees one lacs due to his pitiable economic condition.

From the records, it appears that son of the petitioner Anjay Kumar was also made accused in this case and who was granted regular bail by this Court in Cr. Misc. No.25491 of 2019 vide order dated 8.5.2019 with similar condition of depositing Rs.6,00,000/- within two months, as such, total deposit rupees from father and son comes to Rs.14,00,000/-, whereas, misappropriation of money is Rs.18,74,012/- and apart from petitioner and his son, there are other accused with similar allegations.

In said view of the matter and also in view of the fact that petitioner has already suffered imprisonment for about three months, the order dated 18.02.2019 passed in Cr. Misc. No. 5121 of 2019 is modified to the extent that provisional bail granted to the petitioner shall be confirmed on deposit of Rs.1,00,000/- (rupees two lac) within six months.

All deposits made shall be subject to the final outcome of the case.

With said observation and direction, the modification petition stands disposed of.

(S. Kumar, J)

Rajiv/-Veena

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