

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.952 of 2022

Arising Out of PS. Case No.-11 Year-2010 Thana- C.B.I CASE District- Patna

LIYAKAT ALI Son of Late Munshi Khan Resident of Mohalla - Viskut Vali
Gali, Nai Basti Nagla Nai , P.S.- Hathras, District - Hathras (U.P.)
... Petitioner

Versus

1. The State of Bihar through the Principal Secretary State Food Protection
Consume Govt. of Bihar, Patna
2. The Director , CBI (Patna) Bihar
3. The officer In Charge (C.B.I. ABC Patna) Bihar ... Respondents

Appearance :

For the Petitioner	:	Mr.Brij Bihari Tiwary, Adv.
For the State	:	Mr.Prabhu Narayan Sharma, AC to AG
For the CBI	:	M/s Avanish Kumar Singh & Ambar Narayan, Adv.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 11-04-2023 Counsel for the petitioner is directed to remove the
defect(s) within two weeks.

Heard learned counsel for the petitioner, counsel for
the State and the counsel for the Central Bureau of
Investigation.

Counsel for the petitioner submits that he has filed the
present writ petition for setting the order, dated 20.02.2020, by
which the Special Court, CBI, Patna, has rejected the
application of the petitioner, dated 31.01.2020, wherein the
petitioner has made request to the Special Court to direct the
District Cooperative Officer, Buxar, to produce the relevant
documents which is in the interest of justice. Counsel for the



petitioner submits that Annexure 3, i.e., a letter dated 12.03.2010 was provided to the petitioner by virtue of compliance of Section 207 of the Criminal Procedure Code. At that very time counsel for the petitioner has filed a petition, dated 08.10.2012, by which the most relevant documents on the basis of which letter, dated 12.03.2010, has been prepared was demanded from the prosecution and in response of the said petition the Court has rejected the prayer of the petitioner and observed that the accused can not invoke Section 91 of the Criminal Procedure Code to seek production of document to show his innocence, but, liberty was granted to file a petition to call for document to show his innocence at the stage of defence only. This observation was passed by the Special Judge, CBI, Patna, in Special Case No. 4 of 2010 (R.C. No. 1(A)/104), dated 12.10.2012. Counsel for the petitioner submits that he has filed an application on 31.01.2020 before the Court for documents to show his innocence as the stage of defence has come in this case, on which the Court, after hearing both the parties, has passed the final order, dated 20.02.2020, and rejected his application that demand of movement chalan and book of the District Cooperative Officer, Buxar, are not relevant. Counsel for the petitioner submits that the petitioner seeks following



documents, which is mentioned in paragraph 9 of the petition :

(i) There must be specific order or purchase of paddy issued to complainant P.W. 3

(ii) There must be specific order of purchase of empty gunny bags

(iii) There must be order of enforcement certificate issued by DCO Buxar by which complainant has to be deposited rice stock in FCI, Buxar.

(iv) There must be Book of movement Challan of cooperative Department issued by the DCO Buxar.

Counsel for the CBI submits that the CBI Court has passed a reasoned order and there is no need of interference of the same, as such, this criminal writ application should be rejected.

This Court is of the view that in criminal cases, particularly in the present one, it is the duty of the prosecution to prove the case and prosecution has produced certain documents which are already marked as Exhibits 5, 5/1 and 5/2. The accused persons has right to defend at the stage of adducing the defence witness, that stage is going on. The documents which the accused-petitioner is demanding at present has already been demanded by him at the stage of Section 207 of the Criminal Procedure Code and the Court has granted him liberty to demand those documents when the stage of defence shall come.



Upon coming at the stage of defence when the accused-petitioner has demanded those documents refusal of such demand on which the Court has already applied his mind at the stage of Section 207 of the Criminal Procedure Code are not proper in view of this Court and, therefore, the order, dated 20.02.2020, is hereby set aside. The prosecution is directed to produce all those documents which the petitioner is demanding within 15 days from the date of production of the said order before the Court and the defence is directed to adduce his evidence within four weeks from the date of receiving those documents. If there shall be delay on his part, then, the CBI Court shall be at liberty to close the defence witness and conclude the trial within the fixed period.

With this direction, this application is **disposed off**.

(Dr. Anshuman, J)

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