IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2606 of 2026

Arising Out of PS. Case No.-762 Year-2017 Thana- BHAGALPUR KOTWALI District- Bhagalpur

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Rajesh Pirogiwal S/O Late Om Prakash Pirogiwal R/O Mohalla- BG- 115, Sector 2, Salt City, Bidhan Nagar (M), P.S- Bidhan Nagar East, District- Kolkata, (West Bengal).

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ranjan Kumar Jha, Advocate

For the Opposite Party/s : Mr.Tapeshwar Sharma, APP

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL ORDER

4 01-04-2026 Heard Mr. Ranjan Kumar Jha, learned counsel appearing on behalf of the petitioner and Mr. Tapeshwar Sharma, learned APP appearing on behalf of the State.

2. The petitioner apprehends his arrest in connection with Kotwali P.S. Case No. 762 of 2017 registered under Sections 420,467,468,471,465,120B,34 of the Indian Penal Code and sections 81(1)(b),81(2),81(3)(b),81(4) of the Bihar Value Added Tax Act, 2005.

3. As per the allegations made in the FIR, the petitioner along with other accused have wilfully evaded tax under the Bihar Value Added Tax Act, 2005, causing substantial loss to the State of Bihar and M/s Saha Enterprises concealed

significant transactions and evaded tax on inter-State purchases.

4. Learned counsel appearing on behalf of the petitioner submitted that the petitioner is innocent and he has falsely been implicated in the present case. The petitioner, being the Director of M/s Diksha Timber Pvt. Ltd., had lawfully supplied timber to co-accused M/s Saha Enterprises, out of which a substantial amount remains unpaid, for recovery whereof a civil suit is already pending before the Hon'ble Calcutta High Court. All applicable taxes have duly been paid in the State of West Bengal. The petitioner's implication is based merely on presumption due to alleged non-furnishing of documents, despite having already provided relevant records to establish his *bona fides.* However, the petitioner seeks to avail remedy of appeal and in the meantime, he wants to deposit the disputed amount of tax as assessed by the Commercial Tax Department to get rid of the criminal prosecution.

5. *Per contra,* learned counsel for the informant and learned APP for the State vehemently opposed the prayer for grant of pre-arrest bail.

6. Having heard the rival submissions made on behalf of the parties, as well as, having considered the nature of allegations made in the FIR, the materials available on record,

and the fact that the dispute arises out of a commercial transaction for which a civil suit is already pending before the Hon'ble Calcutta High Court, between the petitioner and M/s Saha Enterprises but at the same time the State should not be put at revenue loss.

7. Under the scheme of Value Added Tax Act, 2005 under Section 85, there is provision of compounding of offence before or after institution of proceeding under Section 81 which inter-alia provides as under :

> *"81. Offences and penalties-(1) Whoever-*
>
> *(a) carries on business as a dealer without being registered in wilful contravention of Section 19, or*
>
> ***(b) fails without sufficient cause to furnish any information required by Section 23, or***
>
> *(c) fails, without sufficient cause, when directed so to do under Section 59, to keep any accounts or record in accordance with the directions, or*
>
> *(d) fails, without sufficient cause, to furnish any return as required by Section 24 by the date and in the manner prescribed,*
>
> *shall, on conviction, be punished with imprisonment, of either description for a term which shall not be less than one month but which may extend to three months and with fine not exceeding one thousand rupees.*
>
> ***(2) Whoever-***
>
> ***(a) knowingly keeps false account of the value of the goods bought or sold by him in contravention of sub-section (1) of Section 52 or Section 53***
>
> ***or (b) wilfully attempts, in any manner whatsoever, to evade any payment of any tax, penalty or interest,***
>
> ***shall, on conviction, be punished with imprisonment, of either description, [for a term which shall not be less than three months but which may extend to six months] and with fine not exceeding two thousand rupees.***
>
> *(3) Whoever-*

> *(a) not being a registered dealer under Section 19. falsely represents that he is or was a registered dealer at the time when he sells or buys goods; or*
>
> ***(b) knowingly furnishes a false return; or***
>
> *(c) knowingly produces before the prescribed authority, false bill, tax invoice, cash-memorandum, voucher, declaration, certificate or other document for any of the purposes of this Act; or*
>
> *(d) issues to any person a certificate or declaration under this Act or the rules framed or notifications issued thereunder, a bill, cash-memorandum, tax invoice, voucher or other document which he knows or has reason to believe to be false; or*
>
> *(e) obstructs any officer making inspection or search or seizure under Section 56 or Section 61 or Section 62,*
>
> *shall, on conviction, be punished with imprisonment, of either description, [for a term which shall not be less than six months but which may extend to one year] and with fine not exceeding three thousand rupees.*
>
> ***(4) Whoever aids or abets any person in the commission of any offence specified in sub-section (1) or sub-section (2) or sub-section (3) shall, on conviction, be liable for punishment of the description specified in respect of the offence in the commission of which he has aided or abetted.***
>
> ***85. Compounding of offences. (1) The Commissioner may, either before or after the institution of proceedings under Section 81, accept from any person charged with an offence under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (4) of the said Section by way of composition of the offence, a sum not exceeding ten thousand rupees and where the offence charged was likely to cause or caused evasion of any amount of tax payable under this Act, a sum not exceeding three times of such amount, whichever is higher.***
>
> ***(2) On payment of such sum as may be determined by the Commissioner under sub-section (1), no further proceeding shall be taken against the accused person in respect of the same offence."***

8. The petitioner if so advised may avail remedy before the Commissioner for compounding of offences and after determination of the sum by the Commissioner under sub-

section (1), he may seek appropriate order in that regard.

9. In view of the specific provision contained under section 85, the order of learned District Court is modified to the above extent directing the learned District Court to pass appropriate order in accordance with law after giving due opportunity to the petitioner and all the affected parties including the officers of the Tax Department well within a period of three weeks.

10. The bail application stands disposed of.

(Purnendu Singh, J)

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