

**( 2026:JHHC:2826-DB )**  
**IN THE HIGH COURT OF JHARKHAND AT RANCHI**  
**Commercial Appeal No. 4 of 2025**

1. The General Manager, East Central Railway, Hazipur, At, P.O. & P.S.- Hazipur, Dist.- Vaishali, Bihar.
2. The Chief Administration Officer (Construction) East Central Railway, Mahendru Ghat, P.O. & P.S.- Mahendru Ghat, Dist.- Patna, Bihar.
3. The Chief Engineer (Construction)/SE, East Central Railway, Mahendru Ghat, P.O. & P.S.- Mahendru Ghat, Dist.- Patna, Bihar.
4. The Deputy Chief Engineer (Construction), East Central Railway, Barkakhana, P.O. & P.S.- Barkakhana, Dist.- Ramghar, Jharkhand.

--- Appellants

Versus

M/s Modi Projects Limited, Kanke Road, Ranchi, Jharkhand represented by Pradip Modi, holding the post of Director, S/o. Late Sita Ram Modi, Residing at 9/1 Basant Vihar, Kanke Road, P.O.- Ranchi University, P.S.- Gonda, Dist.- Ranchi, Jharkhand.

--- Respondent

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**CORAM : HON'BLE THE CHIEF JUSTICE**  
**HON'BLE MR. JUSTICE RAJESH SHANKAR**

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For the Appellants : Mr. Prashant Pallav, A.S.G.I.  
For the Respondent : Mr. Shresth Gautam, Advocate  
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09/ **Dated 03.02.2026**

1. Heard learned counsel for the parties.
2. With the consent of and at the request of learned counsel for the parties, we dispose of this appeal.
3. This appeal is directed against order dated 28.06.2024 in Commercial Arbitration Case No. 01/2020, by which the learned Commercial Court dismissed the appellants' challenge to the interim award dated 18.07.2020 made by the Sole Arbitrator, directing the release of Performance Bank Guarantee in the original and further, directing the release of security deposit of Rs. 1,23,16,085/- (Rs. 10,90,000/- in shape of FDR and Rs. 1,12,26,085/- deducted from the running bills) within 45 days from the date of publication of the interim award,

failing which the appellants were directed to pay simple interest @ 9% per annum on amount of Rs. 1,12,26,085/- till the actual payment.

4. Mr. Prashant Pallav, learned A.S.G.I. appearing for the appellants, referred us to Clause 29 of the Agreement between the parties and submitted that for release of security deposit would be done after the physical completion of work and expiry of the maintenance period. He emphasized that Clause 29 provided for release of this deposit after processing the final bill based on 'no claim certificate'. He submitted that in this case, the respondent had failed to give any 'no claim certificate' and further, even the appellants, in its counter claim, had sought for forfeiture of the security deposit. He, therefore, submitted that making of any interim award under such circumstances was entirely premature and contrary to the public policy.
5. Learned A.S.G.I. submitted that at interim stage, there was no justification for ordering the release of bank guarantee because the appellants had raised serious and contentious issues regarding the discharge or execution of the works by the respondent. He pointed out that the appellants had pleaded fundamental breach of contract on the part of the respondent and under such circumstances, release of bank guarantee would frustrate the provisions of the contract, which contemplated keeping alive the bank guarantee to facilitate the recovery amounts from the respondent should a breach be established. He pointed that the respondent himself contend that bank guarantee has expired.
6. For the above reasons, Mr. Prashant Pallav, learned A.S.G.I., submitted that the interim award warrants interference even under the limited

grounds provided under Section 34 of the Arbitration and Conciliation Act, 1996.

7. Mr. Shresth Gautam, learned counsel for respondent, defends the interim award and order of the Commercial Court based on the reasonings reflected therein. However, he has admitted that an amount of Rs. 14,52,074/- was already paid to the respondent, but this payment was not noticed by the learned Arbitrator, because this was not pointed out by either of the parties to the learned Arbitrator. Therefore, he submitted that respondent would have no objection, if the interim award is modified and reduced by an amount of Rs. 14,52,074/-. Mr. Shreshth submitted that the interim award was neither illegal nor in breach of the public policy to call for any interference. He, therefore, submitted that this appeal should be dismissed or on the highest, the impugned award be modified by reducing the awarded amount by Rs. 14,52,074/-.
8. The rival contentions now call for our determination.
9. The parameters of review of an arbitral award are extremely limited. The Commercial Court, after correctly appreciating the limited scope of the provisions of Section 34 of the Arbitration and Conciliation Act, 1996 has correctly declined to interfere with the interim award, on the ground that the same was not in conflict with public policy.
10. We endorse the reasonings of the Commercial Court. However, apart from endorsing such reasonings, we have considered the submissions made by Mr. Prashant Pallav, learned ASGI, and even independent of the reasoning of the Commercial Court, we are satisfied that no case is made out to interfere with the interim award.

11. In this case, we are primarily concerned with the issues of release of the performance guarantee and security deposit. Considering the materials on record and the rival contentions raised before the Arbitrator, we are satisfied that the learned Tribunal was justified in making an interim award in relation to the release of the performance guarantee.
12. The material on record indicates that the respondent has made a strong prima facie case for the release of the bank guarantee. The appellants never invoked the bank guarantee by alleging any default. The Appellants appear to be resisting the release only because the Respondent was unwilling to issue a no-claims certificate. Retention of the guarantee, without offering any significant benefit to the appellants, disproportionately prejudices the respondent. The release of such a bank guarantee does not involve any actual liability for payment of any amount by the appellants to the respondent. Such a release does not appear to be in serious conflict with public policy.
13. Insofar as the release of the security deposit amount is concerned, we again note that the appellants' insistence, based perhaps on its construction of Clause 29 of the Contract Act, was that there was no obligation to release the security deposit unless the respondent issues a 'no claim certificate'. The learned Arbitrator reasoned that the contractor cannot be forced to give a 'no claim certificate', thereby foregoing all its claim as a precondition for release of the security deposit.
14. The Commercial Court has also held that such insistence on the issue of a 'no claim certificate' as a precondition for release of the security

deposit would not be appropriate. We are also of the opinion that such insistence, in a given case, may even amount to an arm-twisting tactic to prevent the contractor from presenting its claims and seeking an opportunity for their adjudication. If all other conditions for release of the security deposit are fulfilled, the security deposit cannot be withheld merely because a 'no claim certificate' was not issued by the contractor, who may have had claims under the contract.

15. That apart, we note that the learned Arbitrator, in the impugned award, has, in paragraph-29, observed that by releasing the security deposit, the appellants will not be put to any serious loss, or that there would be no miscarriage of justice, *especially in view of the fact that the entire matter in dispute is before me for adjudication*'. By this, the learned Arbitrator has clarified that the mere fact that an interim award has been made does not mean that the appellants' case under Clause 29 of the Contract, or their claim for forfeiture of the security deposit amount, is being finally rejected. Such an issue was expressly reserved for inconsideration be the parties' final adjudication of the claim and counterclaim. With this additional safeguard, we do not think that the appellants have made out any case of serious prejudice for impugning the interim award. In any event, the contention raised does not give rise to a conflict with public policy issue.
16. For the foregoing reasons, we are satisfied that this appeal is meritless and should be dismissed. However, given the concession fairly made by the learned counsel for the respondent on instructions, we direct that the interim award shall now stand modified with a

direction to the appellants to pay the respondent an amount of Rs. 97,74,011 instead of Rs. 1,12,26,085. This modification is made on the concession of the learned counsel for the respondent (on instructions), as otherwise we were doubtful whether we should make any such modification in this appeal.

17. The rest of the directions in the interim award regarding interest, etc., are, however, maintained.
18. This appeal is disposed of with the above modifications, based on the consent and clarifications indicated above. No cost.

**(M.S. Sonak, C.J.)**

**(Rajesh Shankar, J.)**

February 03, 2026  
R.Kr. / Rahul  
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