

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.45112 of 2015

Arising Out of PS.Case No. -88 Year- 2006 Thana -LAHERIMUHALLA District- NALANDA
(BIHARSHARIFF)

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1. Dharendra Prasad Shrivastava S/o Late B.N. Prasad, the then Executive Engineer, retired from office of the Engineer-in-Chief, Road Construction Department, Patna R/o 84-A, Patliputra Colony, P.S.- Patliputra, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar Through Vigilance

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Keshav Srivastav, Sr. Advocate

For the Vigilance : Mr. Ramakant Sharma, Sr. Advocate

Mr. Rabindra Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 16-10-2015 Heard learned counsels for the petitioner and the

Vigilance.

The petitioner is apprehending arrest in a case registered for the offences punishable under Sections 406,409420 and 120B of the Indian Penal Code and section 13(2) read with 13(1) (d) of the Prevention of Corruption Act.

The petitioner at the relevant time, was Executive Engineer of the Road Construction Department, Government of Bihar. The prosecution case is that the accused persons while working as Executive Engineer, Assistant Engineers and Junior Engineers in the Road Construction Department, Government of Bihar, awarded the work of strengthening and widening of



Biharsharif Ekangarsarai Telhara road in the district Nalanda to the co accused Ramakant Singh. The officials of Road Construction Department in conspiracy to the contractor embezzled the government fund and permitted the withdrawal of payments by the contractor in spite of the works either not being executed at all or not executed satisfactorily, as per the specifications. It is further alleged that the accused persons failed to supervise the work in progress and failed to deduct the penal amount for excess allotment of bitumen and also failed to deduct sales tax and royalty at the time of passing of the running bills of contractor which facilitated unauthorized receipt of the amount by the contractor and thereby the accused persons committed offence under sections 420, 120B, 406, 409 of the Indian Penal Code and section 13(2) read with 13(1) (d) of the Prevention of Corruption Act.

It is submitted by learned Sr. Counsel appearing for petitioner that at the relevant time the petitioner was Executive Engineer of Road Construction Department, Govt. of Bihar, the contract was given to the contractor as per the Rules of the Department and there was no specifications in the agreement with regard to the deductions of the amount for the excess supply of bitumen. The whole accusation is levelled on the basis of presumption. Moreover, the prosecution was challenged by the



petitioner before this Court in Criminal Miscellaneous No.13205 of 2007 and the entire prosecution including the order of cognizance was quashed vide judgment dated 21.02.2008 as contained in annexure-10 to the supplementary affidavit. The same was challenged by the State of Bihar in Criminal Appeal No.2552 of 2014 arising out of SLP (Criminal) No.6075 of 2008 whereby vide the judgment dated 09.12.2014, the Apex Court set aside the judgment and order of the High Court and directed criminal proceeding to commence against the accused persons and further directed to conclude the trial expeditiously. It is further submitted that for the same charges departmental proceeding was also initiated but the petitioner has been exonerated. Moreover, since the investigation has already concluded, there is no need of custodial interrogation of the petitioner. Moreover, the investigation has already concluded. The petitioner was posted as Executive Engineer for a brief period.

It is submitted by learned counsel for the Vigilance that the chargesheet has been submitted against the petitioner.

Considering the rival submission of the parties though the case was registered in 2006 but since the prosecution was quashed by this Court and the prosecution was revived after the judgment of the Apex Court dated 09.12.2014, moreover, the

investigation has already concluded, this court finds no reason not to grant the privilege of anticipatory bail to the petitioner.

In view of the aforesaid facts, let the above named petitioner be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, on furnishing bail bond of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Special Judge, Vigilance-1, Patna in connection with Special Case No.30 of 2006, arising out of Laheri P.S. Case No.88 of 2006, subject to the conditions as laid down under Section 438(2) Cr.P.C.

The bail bonds of the petitioner shall be accepted on filing affidavit by the petitioner before the learned court below to the effect that he shall regularly appear during trial. The learned court below will be at liberty to cancel the bail bonds of the petitioner, if he defaults for three consecutive occasions.

(Dinesh Kumar Singh, J)

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