

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.40298 of 2015

Arising Out of PS.Case No. -168 Year- 2013 Thana -DHARHARA District- MUNGER

- =====
1. Om Prakash Kumar, Son of Late Jaldhar Mahto, Junior Engineer in MANREGA, resident of Khawa Chandra Tola, P.S. Surajgarha, District - Lakhisarai
 2. Prem Shankar Tiwari, Son of Late Vashishtha Tiwary, resident of village - Kuddi, P.S. Chand, Distt. - Kaimur, Assistant Engineer, Rural Works Department, Works Division - 2, Munger

.... Petitioners

Versus

The State of Bihar

.... Opposite Party

=====

Appearance :

For the Petitioner : Mr.

For the Opposite Party : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE V.N. SINHA
ORAL ORDER

3 07-10-2015 Heard learned counsel for the

petitioners and the State.

Petitioners at the relevant time served as Junior, Assistant Engineer of the Sub Division where road-in-question was laid in execution of Scheme Nos. 2, 12 both of the year 2010-11 in Dharhara Block of Munger district. Later, the authorities noticed misappropriation of fund in connection with execution of the two schemes, registered Dharhara P.S. Case No. 168 of 2013 for the offence under Section 409 of the Penal Code against three persons i.e. two Panchayat Rojgar



Sewak and one Mukhiya of the concerned Gram Panchayat. Complicity of the petitioners who were the Junior, Assistant Engineer supervising the execution of the project has come to light during investigation. It is submitted on behalf of the petitioners that others namely, Jwala Prasad, District Programme Officer, Munger, whose complicity has also come to light during investigation has been admitted to the privilege of bail in the event of arrest by a coordinate Bench of this Court under Order No. 3 dated 02.07.2015 passed in Cr. Misc. No. 16946 of 2015 (Annexure-3) and petitioner be also allowed similar treatment. In this connection my attention has also been drawn to the case of Rajesh Kumar, a Panchayat Rojgar Sewak named in the First Information Report who also was admitted to the privilege of bail in the event of arrest under order dated 20.08.2014 passed in Cr. Misc. No. 17597 of 2014 (Annexure-4). In support of the aforesaid submission learned counsel for the petitioners has placed reliance on the judgment of the Supreme Court in the case of Siddharam Satlingappa

Mhetre Vs. State of Maharashtra and others (2011)

1 Supreme Court Cases 694 and submitted that anticipatory bail jurisdiction is not extraordinary in the sense that it should be invoked only in exceptional or rare cases. A great ignominy, humiliation and disgrace is attached to arrest. In cases where court is of considered view that accused has joined investigation and he is fully cooperating with the investigating agency and is not likely to abscond, in that event, custodial interrogation should be avoided, and anticipatory bail should be granted, which after hearing Public Prosecutor, should ordinarily be continued till end of trial.

Learned counsel for the State has opposed the prayer for bail of the petitioners in the event of arrest and submits that Panchayat Rojgar Sewak, District Programme Officer are not entrusted with the execution of the project. It is Petitioner No. 1 Junior Engineer and Petitioner No. 2 Assistant Engineer under whose direct supervision the scheme is being executed, as such, they are primarily responsible with the

faulty execution of the scheme, misappropriation of fund meant for the same.

I see substance in the submission raised by the counsel for the State, reject the prayer made on behalf of the petitioners. They are directed to surrender in the court below (Smt. Sulekha Jha, Judicial Magistrate, 1st Class, Munger) in connection with Dharhara P.S. Case No. 168 of 2013 within four weeks from the date of receipt/production of a copy of this order in the court below, whereafter their prayer for bail be considered in accordance with law. It is made clear that in the event the two petitioners fail to surrender within the aforesaid period, court below as also the Chief Judicial Magistrate concerned and the Superintendent of Police shall take appropriate action for bringing the petitioners to justice.

(V.N. Sinha, J)

P.K.P.

U		T	
---	--	---	--