

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.54883 of 2015

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

Nand Kishore Prasad, Son of Late Jai Mangal Prasad, resident of Village-
Mohan Khandha, P.S. Harnaut, District- Nalanda.

.... Petitioner/s

Versus

The State of Bihar through Vigilance

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Prabhu Nath Pathak

For the Opposite Party/s : Mr. Ramakant Sharma(L.O.,I/C Vig.)

**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH**

ORAL ORDER

02/ 04-12-2015

Heard learned counsels for the petitioner

and the Vigilance.

The petitioner is apprehending his arrest in
a case registered for the offences punishable 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.

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 specification. 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 counsel appearing for the petitioner that the relevant time the petitioner being Assistant Engineer was posted as Estimate Officer in Road Sub-division, Bihar Sharif with additional charge of Road Sub-division, Hilsa under Road Sub-division, Bihar Sharif from 31.01.1999 to 26.04.1999. The contract was given to the contractor as per the Rules of the Department and there were 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 case including the order of cognizance was challenged by the petitioner and others before this Court in Criminal Miscellaneous No. 13205 of 2007 wherein the entire prosecution including the order of cognizance was quashed vide judgment dated 21.02.2008 as contained in Annexure-6 of the main petition. 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 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 in the departmental proceeding the petitioner has been exonerated. Moreover, since the investigation has already concluded, there is no need of custodial interrogation of the petitioner.

It is submitted by learned counsel appearing for the Vigilance that huge amount of government money was allowed to be misappropriated by the accused persons including 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 revived only 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 twelve weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Vigilance-I, 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) of the Cr.P.C.

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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