

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.21860 of 2015

Arising Out of PS.Case No. -10 Year- 2014 Thana -GOBARDHANA District-
WESTCHAMPARAN(BETTIAH)

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1. Ashok Prasad @ Ashok Kumar Prasad s/o Jai Narayan Prasad Resident
of Mohalla- Suman Vihar, ward No. 3, Narkatiyagan, P.s Shikkarpur,
District West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kr Singh No. 1

For the Opposite Party/s : Mr. Smt. Anusaiya Jaiswal(App)

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL ORDER

2 09-07-2015 Heard Mr. Baxi S.R.P. Sinha, Sr. Advocate, for the
petitioner and Mrs. Anusuya Jaiswal, APP for the State.

The petitioner is the Principal of the School. He was assigned certain work relating to construction of building at the cost of Rs. 3,88,127/-. He did not complete the work. The F.I.R. was, accordingly, lodged by the Block Education Officer under sections 409 and 420 and other minor sections of the Indian Penal Code.

Petitioner is said to have completed the work and obtained a certificate in the year 2015 and filed anticipatory bail petition vide A.B.P. No. 8671 of 2015 which was allowed on 24.2.2015. He was directed to surrender and furnish bail bonds. It is submitted that it was later found that another anticipatory bail application being A.B.P. No. 1374 of 2014 was filed on behalf of the

petitioner which was disposed of permitting him to surrender and seek bail on merit.

Contention of the petitioner is that he had entrusted the Vakalatnama and the brief to a pairvikar soon after recording of the case. In the meantime, he was advised to complete the work and thereafter pray for grant of anticipatory bail. However, without his further instruction, A.B.P. No. 1374 of 2014 which was disposed of on 4.12.2014. In such circumstances, the petitioner filed Cr. Misc. No. 28 of 2015 in the Court of learned Sessions Judge bringing to the notice of the Court the entire fact and tendered apology. The learned Sessions Judge accepted the apology tendered by the petitioner and issued warning by order dated 6.4.2015. However, the previous order passed in A.B.P. No.1374 of 2014 was made operative and the subsequent order passed on 24.2.2015 in A.B.P. No. 8671 of 2014 was made inoperative.

Counsel for the petitioner tenders apology here also for this mischief said to have been allegedly committed by the pairvikar in absence of clear instruction. In order to show his sincerity, it has been stated that for late execution of the work, he would deposit a sum of Rs. 15,000/- in the Nazarat of the Civil Court by way of demand draft payable to the Collector of the district which shall abide by the final outcome of the case. The counsel, on

instruction, from the pairvikar has further stated that no such mistake shall be committed in future by the petitioner.

Taking into account the aforesaid submission of the counsel as also the fact that the work is now said to have been completed, I am persuaded to privilege the petitioner with anticipatory bail. In the event of arrest or surrender in the Court below within four weeks, the petitioner abovenamed is directed to be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned A.C.J.M., Bagaha, West Champaran in Gobardhana P.S. Case No. 10 of 2014 subject to the condition as laid down under Section 438(2) of the Cr.P.C. with further following conditions:

(i) One of the bailers shall be the own/close family members of the petitioner.

(ii) Along with the bail bonds, the petitioner shall produce receipt showing deposit of a sum of Rs. 15,000/- and/or demand draft payable to the Collector, West Champaran, Bettiah without prejudice to his right and defence which shall, however, abide by the final outcome of the case.

(Kishore Kumar Mandal, J)

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