

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.34344 of 2015

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

Vashishth Narain @ Bashisht Narain S/o Late R.V. Ram Resident of
Village Kazipur, P.S. Simri, District Buxar.

.... Petitioner/s

Versus

The State of Bihar through Vigilance.

.... Opposite Party/s

with

Criminal Miscellaneous No.38491 of 2015

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

Rama Kant Singh Son of Late Ram Khelawan Singh Resident of 101, Lotus
Apartment, New Patliputra Colony, P.S.- Patliputra, District - Patna

.... Petitioner/s

Versus

The State of Bihar Through Vigilance

.... Opposite Party/s

Appearance :

(In Cr.Misc. No.34344 of 2015)

For the Petitioner/s : Mr. Prabhu Nath Pathak, Advocate

For the Opposite Party/s : Mr. Zainul Abedin(App)

(In Cr.Misc. No.38491 of 2015)

For the Petitioner/s : Mr. Lal Babu Singh, Advocate

For the Opposite Party/s : Mr. Ramakant Sharma (Law Off. Vig)

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 09-10-2015 Heard learned counsels for the petitioners and the
State.

The petitioners are apprehending arrest in a case
registered for the offences punishable under Sections 420, 120B,
406, 409 of the Indian Penal Code read with section 13(2) and

13(1) (d) of the Prevention of Corruption Act.

Petitioner Vashishth Narain (in Criminal Miscellaneous No.34344 of 2015), at the relevant time, was Executive Engineer of the Road Construction Department, Government of Bihar and at present is Chief Engineer, Road Construction Department, Govt. of Bihar whereas petitioner Rama Kant Singh (in Criminal Miscellaneous No.38491 of 2015) was the contractor, who was awarded the contract for the work, in question.

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 petitioner Rama Kant Singh (in Criminal Miscellaneous No.38491 of 2015). 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) and 13(1) (d) of the Prevention of Corruption Act.

It is submitted by learned Sr. Counsel appearing for petitioner Vashishth Narain (in Criminal Miscellaneous No.34344 of 2015) 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 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 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 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 intervention of the petitioner.

It is submitted by learned counsel appearing for the petitioner Rama Kant Singh (in Criminal Miscellaneous No.38491 of 2015) that the petitioner was awarded contract of the work in question. The main charge against the petitioner was that he did not pay back the penal charge for the excess supply of bitumen. The petitioner challenged the demand notice issued vide letter no.460 dated 10.04.2006 by the Executive Engineer, Road Construction Department, Biharsharif, Nalanda whereby the petitioner was directed to deposit a bank draft of Rs.48,92,355/- as penal rate of excess supply of bitumen to the petitioner but the same was quashed by a bench of this Court vide order dated 27.04.2007 passed in CWJC No.6773 of 2006 and, consequently, the Executive Engineer, Biharsharif, Nalanda issued demand notice of Rs.1,19,678/- vide letter no. 1006 dated 15.06.2007 and the same has been deposited by the petitioner. The criminal proceeding was challenged by the petitioner vide Criminal



Miscellaneous No.35189 of 2007 and the entire prosecution was quashed by the Co-ordinate Bench of this court vide judgment and order dated 21.02.2008. The same was challenged in the Apex Court. The Apex Court vide judgment dated 09.12.2014 set aside the judgment and order of the High Court vide Criminal Appeal No. 2554 of 2014 arising out of SLP (Criminal) No.3154 of 2014 and directed trial to proceed and to conclude the trial expeditiously.

It is submitted by learned counsel for the Vigilance that the chargesheet was submitted against the petitioner Vashishth Narain (in Criminal Miscellaneous No.34344 of 2015) on 29.06.2007 whereas against petitioner Rama Kant Singh (in Criminal Miscellaneous No.38491 of 2015) on 10.04.2007.

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 case has 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 petitioners

In view of the aforesaid facts, let the above named petitioners 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 ₹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 petitioners shall be accepted on filing affidavit by the petitioners before the learned court below to the effect that they shall regularly appear during trial. The learned court below will be at liberty to cancel the bail bonds of the petitioners, if they default for three consecutive occasions.

(Dinesh Kumar Singh, J)

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