

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.42084 of 2016

Arising Out of PS.Case No. -70 Year- 2016 Thana -GOH District- AURANGABAD

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1. Siyaram Ram Son of Late Nand Kishor Ram Resident of Village-Bhajan Bigha, P.S. Huspura, District-Aurangabad
2. Mithilesh Prasad @ Mithilesh Kumar Son of Shiv Sankar Ram Resident of Village-Munjhara, P.S.-Goh, District-Aurangabad

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mrs. Leelawati Kumari, Adv.

For the Opposite Party/s : Mr. Bharat Lal, APP

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

3 23-11-2016 Heard both sides.

The petitioners apprehend their arrest in Goh P.S. Case No. 70/2016, registered for the offences punishable under Sections 409, 420 and 34 of the Indian Penal Code.

Siyaram Ram petitioner no. 1 the Incharge Headmaster Primary School, Nirpur withdrew Rs. 6,69, 649/- for construction of school building, but did not construct the building and thereby he is alleged to have misappropriated the entire amount. Similarly, Mithilesh Prasad @ Mithilesh Kumar petitioner no. 2 Incharge Headmaster Rajkiya Middle School, Fag withdrew Rs. 9,16,450/- for construction of school building, but he partially constructed the building and Rs. 6,44,023/- is lying due against him.



Learned counsel for the petitioners submits that petitioners have already completed the entire construction work. This court vide order dated 04.10.2016 while granting provisional bail to the petitioners directed the District Magistrate, Aurangabad to submit a report before the court as regards progress in construction work. In pursuance of the aforesaid order the District Magistrate directed the District Education Officer Aurangabad to submit the report. District Education Officer Aurangabad submitted the report which shows that Rs. 9,15,900/- was sanctioned for construction of three additional rooms in primary school Nirpur, the petitioner no. 1 completed the construction work of worth Rs. 4,09,642/- and Rs. 3,90,358/- is lying due against the Incharge Headmaster. Petitioner no. 2 was entrusted to construct three additional rooms in Middle School, Fag at the estimated cost of Rs. 10,88,000/- in the year 2011-12 against which Rs. 9,17,883/- was made available to the Headmaster Middle School, Mithilesh Prasad @ Mithilesh Kumar, but he did construction work of worth Rs. 3,71,491/-. Rs. 5,46,392/- is still lying due against Mithilesh Prasad @ Mithilesh Kumar.

Learned counsel for the petitioners submits that the although both the petitioners constructed substantial work near to completion, but the report is contrary to the assertions made by

them. Petitioner no. 1 is ready to return Rs. 3,90,358/- within one month and petitioner no. 2 is ready to return Rs. 5,46,392/- within one month.

Considering the facts aforesaid and the fact that the petitioners no. 1 and 2 are ready to return their amount lying due against them within one month, the petitioners, in the event of their arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, are directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Aurangabad in connection with Goh P.S. Case No. 70/2016, subject to the conditions as laid down under Section 438(2) of the Cr. P.C.

If the Petitioners no. 1 and 2 fail to deposit Rs. 3,90,358/- and Rs. 5,46,392/- respectively within one month the bail bond of the petitioners shall be cancelled.

(Prabhat Kumar Jha, J.)

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