

IN THE HIGH COURT OF JUDICATURE AT PATNA  
Criminal Miscellaneous No.48938 of 2015

Arising Out of PS.Case No. -132 Year- 2015 Thana -BARARI District- KATI HAR

1. Ravindra Kumar Pathak Son of Late Ram Krishna Pathak, Resident of Village - Pathak Toli, P.S. - Jehanabad, District - Jehanabad.

.... .... Petitioner/s

Versus

1. The State of Bihar

.... .... Opposite Party/s

with

Criminal Miscellaneous No.51900 of 2015

Arising Out of PS.Case No. -132 Year- 2015 Thana -BARARI District- KATI HAR

1. Ved Prakash Kamal son of Late Ashwini Kumar Verma, Resident of village- Chakrashalpur, P.S.- Deep Nagar, District- Nalanda

.... .... Petitioner/s

Versus

1. The State of Bihar

.... .... Opposite Party/s

Appearance :

(In Cr.Misc. No.48938 of 2015)

For the Petitioner/s : Mr. Ramchandra Sahni

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

(In Cr.Misc. No.51900 of 2015)

For the Petitioner/s : Mr. Ramchandra Sahni

For the Opposite Party/s : Mr. Chandra Bhushan Pd.(App)

CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA  
ORAL ORDER

3 20-01-2016 Heard learned counsel for the petitioner and learned counsel for the State.

The petitioners in Cr. Misc. No. 48938/2015 and Cr. Misc. No. 51900/2015 Ravindar Kumar Pathak being Panchayat Rozgar Sewak, Kantnagar panchayat of Barari block and Ved Prakash Kamal being Jr. Engineer of Barari block are apprehending their arrest in connection with Barari P.S. Case No.

132/2015, registered for the offences punishable under Section 406, 409, 420 and 34 of the Indian Penal Code. The said petitioners are similarly situated as one Md. Ismail of Cr. Misc. 45415/2015 which has been disposed of extending the privilege of anticipatory bail.

Learned counsel appearing on behalf of the petitioners submit that the present FIR has been lodged against them with regard to the scheme for construction of road under MANREGA project in the year 2007-08, 2008-09.

It is submitted that on the basis of Vigilance enquiries conducted almost three years after the completion of the said projects the authorities have lodged the present prosecution case, even though the petitioners have earlier come to this Court alleging that they were being victimized as the area in question were flood prone. It is further submitted that the inspection of the area after three years of completion of prescribed period was against the settled principles and guidelines laid under the Rural Employment Guarantee scheme, 2005.

It is submitted that as per the guidelines contained in clause 14.10.4 of the aforementioned column laid down that any enquiry or inspection of the scheme was to be made within one year of the completion of the scheme and at least 5% of the said inspections ought to be made between the period in which the construction of the scheme was being made.

On perusal of the said scheme as placed on record reveals that such a direction was in fact a part of the scheme however, it is contended by the petitioners that much after the prescribed period the road in question was subjected to verification and inspection by the Vigilance and an area which were flood prone subject to soil erosion the scheme and construction were subject to enquiry and thereafter the present FIR was lodged in connection with the present case.

Considering the facts and circumstances and noting the periods involved and also because it has been submitted that in most cases proceedings under the Public Payment Recovery Act have already been initiated against the petitioners, let the above-named 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 the learned Judicial Magistrate Ist Class, Katihar in connection with Barari P.S. Case No. 132/2015 subject to the conditions as laid down under Section 438(2) of the Cr. P.C.

**(Anjana Mishra, J.)**

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