

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.17534 of 2016

Arising Out of PS.Case No. -37 Year- 2016 Thana -PARWATTA District- KHAGARIA

Pawan Chaudhary @ Pawan Kumar Chaudhary Son of Late Chamku Chaudhary resident of Village - Sirajpur, Police Station - Parbatta, District - Khagaria.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

with

Criminal Miscellaneous No.19495 of 2016

Arising Out of PS.Case No. -37 Year- 2016 Thana -PARWATTA District- KHAGARIA

Sanjay Kumar Son of Chandradeo Mahto Resident of Village -Bhirha, PS Medni Chouki, District Lakhisarai, at Present posted as J.E. Block Prabatta District Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

(In Cr.Misc. No.17534 of 2016)

For the Petitioner/s : Mr. Ravi Shanker Pankaj

For the Opposite Party/s : Mr. Umesh Lal Verma(App)

(In Cr.Misc. No.19495 of 2016)

For the Petitioner/s : Mr. Ram Sumiran Rai

For the Opposite Party/s : Mr. Shailendra Kumar Singh (App)

CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

3 27-06-2016 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

The petitioner Pawan Chaudhary in Cr. Misc. No. 17534 of 2016 and the petitioner Sanjay Kumar in Cr. Misc. No. 19495 of 2016 being the Ex-Mukhiya and Junior Engineer of the Temtha Karari Panchayat in the Block Prabatta, District-Khagaria

apprehend their arrest in connection with a case registered for the offences punishable under Sections 406/ 409/467/468/471 and 120(B) of the Indian Penal Code.

Learned counsel for the petitioners submits that the present case has been lodged by the Ward Member of the Gram Panchayat in which the petitioner Pawan Kumar Choudhary was the elected Mukhiya and where the petitioner of the second case Sanjay Kumar was working as Junior Engineer. The allegation against the present petitioners is that there was scheme for repair of ring-bandh in the area for which a huge amount of fund was released under the MNREGA scheme. It has been alleged by the so-called Ward Member that these petitioners have mis-utilized the aforementioned scheme and instead of employing labours for implementing the scheme, they have utilized the JCB machine and tractors and defalcated a huge amount of the fund so allotted to their own advantage.

Learned Counsel for the petitioners submits that the decision to use JCB machine and tractors had been licensed by the Collector of the District and they have received instructions for making such utilization of JCB machines in the exigency of the situation. The further allegation against these petitioners is that they had also backdated the Measurement-Book and shown the

completion of the work even after expiry of the period of agreement.

Learned counsel for the petitioners, however, submits that since the project was licensed by the higher authorities for being conducted with the help of JCB machine, there was no act of criminality involved and the funds had been properly utilized and work completed within the period so prescribed.

It was stated that the Ward Member is nothing but, a busy body in the area who keeps filing false complaints against the persons out of pure political rivalry. The petitioner Pawan Kumar Chaudhary has also faced similar prosecution in another case on the basis of a complaint filed by the same Ward Member informant/complainant of the present case. In the said case the petitioner has already been extended the privilege of anticipatory bail and the facts of this case are also similar though the nature of the work was different.

Considering the aforementioned facts and circumstances and the nature of allegations and that the petitioners had acted in bonafide compliance of the directions of the superior authorities and that there is no further material to show that the petitioners had misappropriated the Government money, let the petitioners Pawan Chaudhary and Sanjay Kumar, in the event of their arrest/

surrender within a period of four weeks from the date of receipt/production of a copy of this order, be enlarged on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate, I, Khagaria in connection with Parbatta P.S. Case No. 37 of 2016, subject to the conditions as laid down under Section 438(2) of the Cr. P.C.

(Anjana Mishra, J)

Saif/-

U		T	
---	--	---	--