

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.54801 of 2017

Arising Out of PS.Case No. -332 Year- 2016 Thana -DUMRA District- SITAMARHI

=====

1. Bhim Shankar Rai, Son of Late Ramnath Rai, Resident of Village-
Rampur Khoribari, Police Station- Bhatni, District- Deoria (U.P.) Presently
402, Bhuneshwar Enclave, A.G. Colony, Police Station- Shastrinagar,
District- Patna then the Executive Engineer, Bagmati Division, Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Ram Pravesh Nath Tiwari

For the Opposite Party/s : Mr. Sri Abhay Kumar Roy

=====

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

4 07-12-2017

Heard the counsels for the parties.

The petitioner, who is a retired Executive Engineer, seeks
bail in connection with Dumra P.S. Case No. 332/2016 dated
19.12.2016 instituted for the offences under Sections 420, 409, 34,
406, 467, 468, 201 and 120(B) of the Indian Penal Code.

It has been alleged in the F.I.R. that in the contract, which
was executed for raising and strengthening the Adhwara River bank,
excess payment was made to the contractor to the tune of
Rs. three crores, forty lakhs, eighteen thousand and odd without
seeking the necessary approval of the Chief Engineer. At the relevant
time, the petitioner was working as the Executive Engineer and he
superannuated on 31.01.2014 from his post.

Mr. P.K. Shahi, learned senior advocate appearing for the
petitioner, has submitted that there is no allegation with respect to



misappropriation of funds, but the only allegation in the F.I.R. is regarding excess payment having been made to the contractor at the instance of the petitioner. No doubt, this allegation also falls within the mischief of Section 409 and other sections of the Indian Penal Code, but it has been submitted that with respect to the excess payment of money to the contractor, proceedings were initiated and recovery of the excess amount paid was made. The contractor thereafter, it has been submitted, approached this Court seeking cancellation of the order whereby recovery was made. A Bench of this Court, way back in the year 2016, directed for the return of the recovered amount subject to furnishing of Bank guarantee for the value of Rs. 3 crores.

The petitioner is in custody since 23.07.2017.

Regard being had to the aforesaid facts, the petitioner above named is directed to be released on bail on his furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Sitamarhi in connection with Dumra P.S. Case No. 332/2016.

(Ashutosh Kumar, J.)

Rakhi

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

