

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.58411 of 2018

Arising Out of PS. Case No.-140 Year-2018 Thana- WAJIRGANJ District- Gaya

Surendra Paswan (Ex- Panchayat Sevak), Son of Late Jagdish Paswan,
Resident of Village- Ramnagar, P.S.- Tekari, District- Gaya, at present posted
at Block Office Bodhgaya, P.S.- Bodhgaya, District- Gaya (Bihar).

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Shrivastava

For the Opposite Party/s : Mr. Sri Jagdhar Prasad

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN **
AMANULLAH

ORAL JUDGMENT

Date : 14-12-2018

Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner apprehends arrest in Wazirganj P.S.
Case No. 140 of 2018 dated 07.05.2018 instituted under Sections
406/409 of the Indian Penal Code.

3. The petitioner, who was at the relevant time a
Panchayat Sewak at Wazirganj block, is alleged to have defalcated
a sum of Rs. 12,74,767/-, which was taken by him as advance for
doing development work under different schemes which was
neither completed nor returned.

4. Learned counsel for the petitioner submitted that the
amounts were already given to various contractors for doing the



work and if they did not complete the same, the petitioner cannot be held responsible as he was not the executor of the same.

5. Learned A.P.P. submitted that the petitioner having admitted to receiving money, it was his job to ensure that the purpose for which the money was withdrawn was either fulfilled or in the alternative, if the work was not completed, the money had to be returned into the Government treasury. It was submitted that in view of the admitted position, the petitioner does not deserve any indulgence.

6. Learned counsel for the petitioner, at this juncture submitted that he may be granted time to pay the money, as alleged to have been defalcated, in installments.

7. The offer by the petitioner may be acceptable but the Court would not interfere in the matter as it is for the authorities to take a call on the same. Before the Court, the consideration is whether he deserves the privilege of anticipatory bail or should go and submit before the Court for the law to take its own course.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to enlarge the petitioner on anticipatory bail.

9. Accordingly, the application stands dismissed.



10. However, if the petitioner files a detailed representation before the authorities concerned, giving specific time schedule and figures with regard to the amounts which he shall deposit, the authorities shall consider the same in public interest in view of the money being returned to the Government.

(Ahsanuddin Amanullah, J)

P. Kumar

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