

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.5809 of 2019

Arising Out of PS. Case No.-40 Year-2018 Thana- RATANPUR District- Supaul

Nutesh Kumar, son of Sri Bipin Bihari Prasad, resident of Mohalla-Srikrishna Nagar, P.S.-Motihari, District-East Champaran.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anil Kumar

For the Opposite Party/s : Mr.Uday Pratap Singh

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 01-02-2019 The petitioner seeks bail in anticipation of his arrest in connection with Ratanpura P.S. Case No. 40 of 2018 dated 15.07.2018 instituted for the offences under Sections 406, 409, 420, 120(B) of the Indian Penal Code.

The petitioner, who was an Assistant Engineer at the relevant time, is alleged to have defaulted in carrying out the construction work in Supaul in accordance with the specification and is further alleged to have made wrong entry in the measurement book.

The sum and substance of the allegation is that the work was not completed as per the specification which resulted in damage to the construction. Hence, an enquiry was made whereafter the subject F.I.R was registered.



The learned counsel for the petitioner has submitted that before registering the F.I.R, the details were not examined by the informant. In fact, a completion report was submitted by the petitioner indicating that the work which was entrusted to him had been completed in the year 2013 only. The Superintending Engineer had certified that the work had properly been executed. Merely because some damages were discerned after about 5-6 years of the construction, it cannot be presumed, it has been argued, that the work was not conducted in accordance with the specification provided in the work order. Apart from this, it has been submitted that there is no evidence to suggest that there was any intention of the petitioner to cause any loss to the Government. Under almost similar circumstances, one of the accused persons, who at the relevant time was the Executive Engineer, has been granted anticipatory bail by a Bench of this Court vide order dated 11.12.2018 passed in Cr. Misc. No. 63067 of 2018.

Though the bail which has been granted to the Executive Engineer is on a different ground altogether,



nonetheless, this Court has taken note of the fact that the construction work was completed in the year 2013 and the F.I.R was lodged in the year 2018.

Regard being had to the aforesaid facts, the petitioner, above named, in the event of his arrest or surrender before the Court below within a period of four weeks from today, is directed to be released on bail on his furnishing bail bonds of Rs. 10,000/-(Ten Thousands) with two sureties of the like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Birpur in connection with Ratanpura P.S. Case No. 40 of 2018, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Ashutosh Kumar, J)

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