

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40804 of 2019

Arising Out of PS. Case No.-95 Year-2019 Thana- CHAKIA District- East Champaran

1. BHOLA SHARMA Son of Late Chandradeo Sharma Resident of Shanti Nagar, Sahebganj Road, Ward No.6, Post Office-Bara, Police Station-Chakia, District-East Champaran.
2. Ranjit Kumar Singh Son of Dina Nath Singh Resident of Raniganj, Ward No.03, Post Office-Bara, Police Station-Chakia, District-East Champaran.
3. Pramod Kumar Son of Chandra Kishore Ojha Resident of Raniganj Mohalla, Ward No.07, Post Office-Bara, Police Station-Chakia, District-East Champaran.
4. Anil Kumar, Son of Bishwanath Prasad, Resident of Raniganj Mohalla, Ward No.04, Post Office-Bara, Police Station-Chakia, District-East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Devi Das Srivastava

For the Opposite Party/s : Mr.Kanhaiya Kishore (App 100)

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 02-07-2019 Heard learned counsel for the parties.

The petitioners apprehend their arrest in connection with Chakia P.S.Case No. 95 of 2019 registered under Sections 406 and 409 of the Indian Penal Code.

Allegation against the petitioners is that they, being contractors, were responsible for irregularity committed in the UIDSSMT Road Scheme of Nagar Panchayat, Chakai.

Learned counsel for the petitioners submits that petitioners are petty contractors and scheme was of the year 2009. He refers



page 22 of the application, which is a letter dated 10.01.2019 issued by the Director, Municipal Corporation Administration -cum- Special Secretary, in which the allegation is that in 17 schemes, metal work was found less in thickness to the extent of 25 mm and in 04 schemes, the surface level was found damaged. Learned counsel submits that from perusal of Annexure-2, which is a letter dated 06.09.2014 and pertains to enquiry conducted for UIDSSMT Scheme, Chakia, it would be evident that the Executive Engineer, District Urban Development Authority, East Champaran, Motihari has stated that as per PWD Code, if there is merely shortage in thickness of the construction not affecting the quality of the same, the payment may be made proportionately to the contractor and accordingly, he recommended that the payment should be reduced in proportion to the shortage of thickness from the rate mentioned in the agreement. Learned counsel further submits that for the same allegation, two FIRs were lodged, and the first FIR, bearing Chakia P.S. Case No. 135 of 2018, was lodged against the officials/Engineers of the Nagar Panchayat Chakia and other i.e., the present FIR, has been lodged against the contractors. He submits that in the FIR lodged against the officials, the named accused person Ajay Shankar, who is a Junior Engineer of Nagar Panchayat Raxaul, has been granted anticipatory bail by a co-ordinate Bench of this Court vide order



dated 30.01.2019 passed in Cr.Misc. No. 4996 of 2019.

After having heard learned counsel for the parties and taking into consideration the fact that by Annexure-2, the Executive Engineer has recommended for payment to the contractors in lesser proportion to the extent of shortage of thickness and further that a Junior Engineer of the Scheme has been granted anticipatory bail by a co-ordinate Bench of this Court, I am inclined to grant anticipatory bail to the petitioners. Let the petitioners, abovenamed, in the event of arrest or surrender before the court below within a period of four weeks from the date of receipt of a copy of this order, be released on bail upon furnishing bail bond of Rs. 10,000/- each with two sureties of the like amount each to the satisfaction of the learned ACJM, East Champaran, Motihari in connection with Chakia P.S.Case No. 95 of 2019; subject to condition as laid down under Section 438(2) of the Code of Criminal Procedure.

(Anil Kumar Sinha, J)

sujit/-

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