

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77336 of 2019

Arising Out of PS. Case No.-125 Year-2015 Thana- DHAMDAHA District- Purnia

Akhilesh Kumar, son of Keshav Singh @ Keshav Singh @ Keshav Prasad
Assistant Engineer, R.E.O., Works Division, P.S. and District - Khagaria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N. K. Agrawal, Sr. Advocate Dr. Bidhu Ranjan, Advocate
For the Opposite Party/s	:	Mr. Mithlesh Kumar Khare, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 09-12-2019

Heard Mr. N. K. Agrawal, learned senior counsel for
the petitioner and learned APP for the State.

2. The petitioner apprehends arrest in connection with
Dhamdaha PS Case No.125 of 2015 dated 17.05.2015 instituted
under Sections 406, 409, 467, 468, 471 of the Indian Penal
Code.

3. The allegation against the petitioner is that he had
approved payment of money for construction of a road which
has been found not to be as per the specification.

4. Learned counsel for the petitioner submitted that he
was the Assistant Engineer at the relevant time and basically, it
is for the Contractor to execute the work and further that full
payment of the scheme has not yet been made to the Contractor



and if there is any shortcoming, either it can be rectified or the amount, which has not been paid, can be denied. Learned counsel submitted that the Contractor has been granted anticipatory bail by a co-ordinate Bench by order dated 22.08.2019 in Cr. Misc. No.52435 of 2019.

5. Learned APP submitted that it is the petitioner, who is the person at fault and after him having certified that the work is as per specifications and satisfactory, payments are made. It was submitted that the allegation is with regard to the work done and for which payment has been made and thus, the plea of full amount not being disbursed is neither reflected from the materials/complaint nor can be a ground for considering the case of the petitioner. It was further submitted that the Contractor being a private person, the onus is more on the petitioner, who is an officer of the State and who had cleared the payment made from the government expenditure. It was, thus, submitted that position of the petitioner and that of the Contractor cannot be compared as the responsibility is directly and more on the petitioner being the public authority on whose approval and clearance payment is made.

6. 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.

7. Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J)

J. Alam/-

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