

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9334 of 2020

Arising Out of PS. Case No.-227 Year-2019 Thana- MADHEPURA District- Madhepura

BINDESHWARI PRASAD YADAV Son of Late Rashbihari Yadav Resident
of Village- Chikni Fulkaha, Ward No. 05, P.S.- Gamharia, District-
Madhepura.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Shailendra Kumar Singh
For the Opposite Party : Mr. Parmeshwar Mehta, APP

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL ORDER

10 07-12-2020 Heard Mr. Shailendra Kumar Singh, learned counsel
appearing on behalf of the petitioner and Mr. Parmeshwar
Mehta, learned Additional Public Prosecutor, for the State of
Bihar.

This application for grant of regular bail arises out of
Madhepura (Parmanandpur O.P.) P.S. Case No. 227 of 2019,
registered for the offence punishable under Sections 406, 409,
420, 120(B)/34 of the Indian Penal Code.

The petitioner, at the relevant point of time, was
posted as Panchayat Secretary, Parmanandpur Gram Panchayat
in the district of Madhepura. It is alleged that he, in conspiracy
with the Mukhiya of the said Gram Panchayat, misappropriated
a total sum of Rs.18,57,136.00, which he had taken as advance
for execution of certain projects covered by the 13th Finance



Commission recommendations. The said amount was not utilized for the purpose the same was withdrawn and thus misappropriated.

This is to be noted that when the matter was taken up on 06.07.2020, a submission was advanced on behalf of the petitioner that before lodging of the First Information Report, the petitioner had retired after attaining the age of superannuation and that had he been given an opportunity, he could have explained to the authorities the manner, in which the money, which was withdrawn for execution of work, was in fact utilized. Noticing the above submission, the Court had allowed the petitioner provisional bail for a period of four months from the date of his release, mainly for the purpose of giving him an opportunity to explain to the Investigating Officer the circumstance in which the money was utilized and as to whether part of any amount was still pending with him. He was also required to approach the District Magistrate, Madhepura, with his explanation in respect of misappropriation of money while functioning as Panchayat Secretary. In the light of the said order, the petitioner has filed second supplementary affidavit, wherein following statements have been made in paragraphs 3 and 4 : -

“3. That it is humbly submitted that in Yojna No. 01/2013-14, 03/2012-14 and 04/2012-14 vide Annexure-1 of



bail petition at page 15 petitioner has done partly works and he could not complete the works and the remaining amount of aforesaid three Yojna Rs.281446.00 + 136052.00 + 357500.00 = 774998.00 is pending with the petitioner.

4. That it is submitted in Yojna No.02/2014-15 at Serial No. 7 the estimated amount is 225100.00 and advanced amount is Rs.157500.00 in which as per measurement book issued by J.E. work of Rs.13663.00 has been done and balance amount is 20837.00”

However, it transpires that according to the petitioner, there is a typographical error in paragraph 4 of second supplementary affidavit and in place of ‘Rs.136663.00’, ‘13663.00’ has been typed. It has also been stated that in paragraph 3 of the second supplementary affidavit, that ‘56829’ has been typed in place of ‘26829’. On conjoint reading of the second supplementary affidavit and third supplementary affidavit, it is evident that it is petitioner’s own case that a sum of Rs.883085.00 has not been used for execution of work, though it has been stated that the petitioner has paid to a brick kiln owner a sum of Rs.8,62,248.00 for supply of bricks for construction work, which the brick kiln owner has failed to supply.

Considering the nature of allegation in the First Information Report and the facts, which have emerged in the own statement of the petitioner, this application is allowed. Let



the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned C.J.M. Madhepura, in Madhepura (Parmanandpur O.P.) P.S. Case No. 227 of 2019, subject to the condition that the petitioner shall deposit 50% of the amount of Rs. 862248.00 + Rs. 20837.00 = Rs. 883085 in 12 equal installments, first installment of which shall be deposited before the Court by 7th January, 2021, whereafter he shall be released on bail. Subsequent installments shall be required to be deposited by him within 15th day of every month, failing which his bail bonds shall be liable to be cancelled. Further, the Court below is directed to ensure that the trial is expedited.

Let a copy of this order be communicated to the Superintendent of Police, Madhepura, to consider whether the facts, which have emerged in the second supplementary affidavit, are required to be incorporated by way of further investigation for filing further police report before the Court below.

It is directed that the defect(s) in the application, pointed out by the Registry, must be removed within two months.



Since COVID-19 pandemic situation is prevailing, the Court has considered it appropriate to adopt following procedure for communication of the present order :-

(i) The order, which has been dictated during the course of the proceedings of virtual Court, shall be communicated to me on my e-mail I.D. by the Secretary.

(ii) The corrected copy of the order shall be transmitted by me from my e-mail I.D. to the Secretary, which shall be treated to be the authentic copy of the order passed by this Court today in the present proceeding.

(iii) Hard copy of the order, duly signed by me, shall be preserved in my residential-office for documentation and future use, if any.

(iv) Let a copy of the order be communicated to the learned Court below through e-mail or any other appropriate electronic mode by the Registry.

Let steps be taken by the Registry for uploading of the present order without compromising with the norms of social distancing.

(Chakradhari Sharan Singh, J)

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