

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21475 of 2020**

Arising Out of PS. Case No.-214 Year-2019 Thana- CHHATAPUR District- Supaul

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SANTOSH KUMAR Son of Yog Narayan Mandal Ward No. 02, Bairia, P.S.
- Chhatapur, Dist. - Supaul.

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.D.K. Sinha (Sr. Advocate)
: Mr.Kumar Goutam
For the Opposite Party/s : Mr.Pawan Kumar Chaurasiya

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

ORAL ORDER

5 25-09-2020 Heard learned counsel for the parties.

This application for anticipatory bail arises out of Chhatapur P.S. Case No. 214 of 2019 for the offence under Sections 406, 409 and 420 of the Indian Penal Code.

There is allegation in the F.I.R. of misappropriation of public money in the financial years 2014-2015 and 2015-2016, which was made available to Gram Panchayat, Rajeshwari Paschim in relation to construction of village roads. Allegedly, without completing construction of the roads, the office bearers of the Panchayat, had withdrawn the full amount. Grievances were raised before the Grievance Redressal Officer making allegation to this effect. It appears that the Grievance Redressal



Officer-cum-1st Appellate Authority under “The Bihar Right to Public Grievance Redressal Act, 2015” after calling reports from different functionaries finding *prima facie* case of criminal breach of trust and misappropriation of public money directed the Block Development Officer to comply with an order of the Sub-Divisional Grievance Redressal Officer, Triveniganj to lodge an F.I.R. It is in this background that the F.I.R. has been lodged.

The petitioner was *Mukhiya* at the relevant point of time. The F.I.R. refers to five projects in relation to construction of PCC roads, which were not completed, though amount was withdrawn and in the measurement book, the total work was shown to have been completed. Measurement book is maintained by the Junior Engineer.

Mr. D.K. Sinha, learned Senior counsel appearing on behalf of the petitioner has submitted that the Public Grievance Redressal Officer did not have any jurisdiction to direct for lodging of the F.I.R. and, therefore, registration of F.I.R. on the basis of such direction, itself is bad in law. He has further submitted that all the works in respect of which, the petitioner had any responsibility, as the then *Mukhiya*, were completed. He has also submitted that during the course of the investigation, no



villager has supported the case of prosecution. He has urged that out of the five projects indicated in the F.I.R., the petitioner's role as *Mukhiya* has been referred to only in respect of three.

Learned Addl. Public Prosecutor has on the other hand opposed the prayer for anticipatory bail.

Case diary has been called for, digitized copy of which is available on record. I have carefully perused the case diary. It is evident from paragraphs 10 and 11 of the case diary that in respect of project no. 1/2015-16 and project no. 3/2014-15, the Investigating Officer found, on physical verification, that the work was not completed. In respect of project no. 2/2015-16, the Investigating Officer found that there was no laying of PCC road at all. Further, the villagers supported the prosecution's case that the work was not completed. It *prima facie* appears on reading of the case diary that the petitioner in his capacity as *Mukhiya*, the then Panchayat Secretary of the Gram Panchayat, the Junior Engineer and the concerned Assistant Engineer connived with each other and in a well hatched up conspiracy, misappropriated the public money. In my opinion, the Courts should be loath in granting anticipatory bail in cases where, there is allegation of misappropriation of public money, meant



for developmental works. Misdeeds of such nature substantially hamper such projects meant for the benefit of people at large. Further, such cases require custodial interrogation. Additionally, there is strong possibility of influencing of the witnesses and tampering with the evidence.

In the above circumstance, I am not inclined to grant the petitioner privilege of anticipatory bail.

This application is accordingly rejected.

The petitioner is directed to surrender before the Court below within a period of eight weeks from today and seek regular bail, if so advised. If he does so, his application for regular bail shall be considered by the learned Court below on its own merit without being prejudiced by rejection of present application for grant of anticipatory bail.

(Chakradhari Sharan Singh, J)

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