

IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr. Misc. No. 21470 of 2020

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Kamlesh Kumar, S/o Late Rajendra Prasad, R/o Salimpur Ahra, P.S.-Kadam
Kuan, District-Patna.

... .. Petitioner

Versus

The State of Bihar

.. ... Opposite Party

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Appearance :

For the Petitioner : Mr. Patanjali Rishi, Advocate

For the Respondent State: Mr. Nityanand, APP

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

ORAL ORDER

2 21-08-2020 Heard Mr. Patanjali Rishi, learned counsel appearing
on behalf of the petitioner and Mr. Nityanand, learned
Additional Public Prosecutor, for the State of Bihar.

This application for grant of anticipatory bail arises
out of Ben P.S. Case No. 31 of 2020, registered for the offence
punishable under Sections 420 and 409 of the Indian Penal
Code.

The petitioner is a Junior Engineer, who was
supervising work under *Pakki Nali Yojna* of the State
Government. Allegedly, he recorded measurement of work in
the measurement book as 2803 Sq. Ft., though the actual work
done was 2156.20 Sq. Ft.. The measurement of the work shown
by the petitioner was thus 646.80 Sq. Ft. in excess.

In response to a query made by this Court, learned



counsel for the petitioner has informed that no disciplinary proceeding has been initiated against the petitioner. With reference to the statement made in paragraph 8 of the application, he has submitted that the estimate of the concerned PCC work did not comprise brick soling work. Brick soling work was, however, found to have been done from before, which had got damaged. It is his submission that in order to ensure PCC work over the street, the repair of the brick soling was also required, which was done and measured in the measurement book. He has also submitted that the petitioner is ready to deposit the amount on *pro-rata* basis for the alleged excess measurement, which turn out to be 26,867/-. According to him, the petitioner being a public servant, there is no chance of his tampering with the evidence or fleeing from the course of investigation or trial.

Considering the aforesaid submission, this application is allowed.

Let the petitioner above named, in the event of his arrest/surrender within eight weeks from today in the Court below, 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 A.C.J.M.-1, Nalanda, in Ben P.S. Case No. 31 of 2020, subject to the conditions as laid



down under Section 438(2) of the Code of Criminal Procedure.

This is subject to the condition that the petitioner shall present himself before the Police/Court, as the case may be, as and when required and in the event of failure on his part to appear before the Court on two consecutive occasions, his bail bonds shall be liable to be cancelled.

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

It is indicated that non-initiation of departmental proceeding against the petitioner, despite nature of allegation against him, has been one of the factors why the Court has allowed the petitioner privilege of anticipatory bail.

Let a copy of this order be communicated to the District Magistrate, Nalanda, to take a decision as to whether a case for initiation of departmental proceeding against the petitioner is made out or not.

Since there is a lock down, 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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