

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27506 of 2020

Arising Out of PS. Case No.-112 Year-2020 Thana- PHULWARIYA District- Gopalganj

ALI AKBAR ANSARI @ MD. AKBAR ALI ANSARI, Son of Nabi Rasul Ansari, Resident of Village - Bhagwanpur, Post Office - Bathua Bazar, P.S.- Phulwaria, District - Gopalganj.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Umesh Kumar Mishra, Advocate

For the Opposite Party/s : Mr. Ram Naresh Ray, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 01-02-2021 Heard learned counsel for the petitioner and Mr. Ram Naresh Ray, learned A.P.P. for the State.

The petitioner, in the present case, is seeking pre-arrest bail in connection with Fulwaria P.S. Case No. 112 of 2020 registered for the offence under Sections 188, 420 and 409 of the Indian Penal Code.

Learned counsel for the petitioner submits that as per the prosecution case lodged on the basis of a written report submitted by the District Programme Officer, Phulwariya, this petitioner being Mukhiya of Gram Panchayat Raj, Giddha had given administrative sanction of the scheme in question. The said scheme was to be carried out under the Mahatma Gandhi National Rural Employment Guarantee Act (MNREGA). Under the MNREGA the use of JCB machine is prohibited but it was found that the implementing agency which is the Gram Panchayat, Giddha itself was using JCB machine



in the scheme and it was being done without drawing any Muster Roll and had it not been timely verified then huge Government amount could have been swindled in the name of giving jobs to the labourers.

The FIR also alleges that the petitioner is involved in illegal act and during Covid-19 period when the labourers are coming back to their home State and are fighting with unemployment and other problems, MNREGA is a medium through which they may be given employment but instead of that JCB machine was being used in the scheme.

Learned counsel submits that the FIR has been lodged being politically motivated to harass this petitioner and according to him the Rojgar Sevak is the agency for completion of the work in MNREGA Scheme and the Mukhiya has no role in it. It is submitted that the FIR has been registered on mere suspicion. Learned counsel has also submitted that the petitioner has no role in the scheme.

On the other hand, learned A.P.P. for the State has opposed the prayer for anticipatory bail of the petitioner. Learned A.P.P. for the State submits that there is not only a specific allegation against this petitioner that being a Mukhiya of the Gram Panchayat he had given an administrative sanction of the scheme and the scheme was being carried out contrary to the provisions of the Mahatma Gandhi National Rural Employment Guarantee Act (MNREGA), the JCB machine was being used in the said scheme but now case diary has



been received and the learned A.P.P. for the State submits that on perusal of the case diary, particularly the statement of the Junior Engineer who was regularly visiting the site had come in paragraph 5 that this petitioner was getting the work done through JCB and that had rendered in fact the workers who were searching job and money for their livelihood during the pandemic period unemployed, this Court is not inclined to grant privilege of anticipatory bail to the petitioner. His prayer for anticipatory bail is thus refused.

In case the petitioner surrenders and prays for regular bail before the learned court below within a period of four weeks from today his prayer for regular bail shall be considered on its own merit without being prejudiced by order of this Court.

The observation with regard to surrender in the court below within a period of four weeks shall not be construed as granting any interim protection to the petitioner for the aforesaid period.

The application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

