

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46025 of 2021

Arising Out of PS. Case No.-194 Year-2021 Thana- RAJAON District- Banka

BIRENDRA KUMAR BHARTI S/o Late Anirudh Prasad Yadav R/O- Sujal
Korama, Post - Kathrang, P.S. - Rajoun, District - Banka, Bihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Mringank Mauli, Sr. Advocate
	:	Mr. Prince Kumar Mishra, Adv.
	:	Mr. Aryan Sinha, Adv.
For the Opposite Party/s	:	Mr. A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 13-12-2021 Let the defects, as pointed out by the office, be removed within four weeks of starting of Court proceeding in physical mode in normal course.

Heard learned senior counsel for the petitioner and the learned A.P.P. for the State.

The petitioner seeks bail in connection with Rajoun P.S. Case No. 194 of 2021 registered for the offence under Sections 406, 420, 467, 468 and 471 of the Indian Penal Code.

The petitioner being the contractor is alleged to have not used the quality material in completing the construction work of the road as a result of which the road/tracks are being damaged and, accordingly, the



Government fund has been misappropriated by the petitioner.

Learned senior counsel appearing for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. As a matter of fact, the petitioner happens to be a contractor and he has been assigned three work orders with respect to construction and maintenance of three roads i.e. (i) L027-T03 to Mirnagar (Tracks-6), (ii)L103-BGP- Dumka Rd. Majhgain To Subkha (Track-53) and (iii) L093- BGP Dumka Rd. to Ghutia (Track-47) by the Rural Works Department and according to the work orders, the petitioner has successfully constructed/completed the roads on 21.11.2017, 10.07.2017 and 15.02.2016, respectively, and the payment thereof have been made to him after proper verification of quality work and measurement done by the concerned officers of the department.

He further draws the attention of this Court towards the obligation of the petitioner as per the agreement that the petitioner has to maintain the roads in question for further five years after their successful completion and the petitioner is fairly acting upon the terms



of the agreement but unfortunately this petitioner is being prosecuted in this case for his no fault even before lapse of the period of maintenance i.e. five years as the instant F.I.R. has been instituted against him on 04.06.2021. The petitioner showing his *bonafide* is still ready to maintain the roads in question as per the agreement terms and a statement to that effect has been made in paragraph-15 of the application. Therefore, no case of misappropriation of government fund is made out against the petitioner which attracts Section 420 of the Indian Penal Code. Hence, the petitioner, who is rotting in judicial custody since 05.06.2021, may be enlarged on bail.

Learned A.P.P. for the State has opposed the prayer for bail of the petitioner and submits that the petitioner carries one more case other than the present one which manifests from paragraph-3 of the petition.

Considering the facts and circumstances of the case, let the, above named, petitioner 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 learned Chief Judicial Magistrate, Banka in connection with Rajoun P.S. Case No. 194 of 2021 with the following



conditions:-

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be canceled by the Court below.

(2) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

And, further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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