

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14336 of 2022

Arising Out of PS. Case No.-215 Year-2019 Thana- DHAKA District- East Champaran

Mukul Ranjan Son of Shrikant Sharma @ Srikant Sharma Resident of Village
- Saratha, Police Station - Dhaka, District - East Champaran.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s

: Mr.Karandeep Kumar, Advocate.

For the Informant

: Mr. Sanjay Kumar Singh, Advocate.

For the State

: Mr.Parmeshwar Mehta, APP.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

3 21-07-2022 The learned counsel for the petitioner is directed to re-

move all the defects pointed out by the Stamp Reporter within

one month.

Heard learned counsel for the petitioner as well as

learned counsel for the informant and the learned APP for the

State.

Petitioner seeks regular bail in connection with Dhaka

P.S. Case No. 215 of 2019 registered for the offence punishable

under Section 409 of the Indian Penal Code.

As per prosecution's story a sum of Rs. 12, 69,000/-

was sanctioned in connection with Nal Jal scheme and the allot-

ment of necessary fund was made in view of the agreement

made between the petitioner and the State and according to the

allegation Rs. 12,00,000/- was withdrawn by the petitioner

through two different cheques, but thereafter, the work in ques-

tion which was to be completed by the petitioner was not com-



pleted and according to the prosecution petitioner misappropriated the sum which was withdrawn by him in respect of the work of Nal Jal Yogna.

The main submissions advanced by learned counsel for the petitioner are that the petitioner was mainly bound to supply the materials in respect of the work for which the agreement was made and he supplied the materials worth Rs. 12,01,026/- and as per the Panchayat Raj Department the work in question was actually to be completed by the committee concerned but the allegation was made against the petitioner with regard to non completion of the said work and petitioner received an information which was provided to him vide annexure-4 which clearly shows that the alleged work has been completed and the management committee intentionally does not want to issue work completion certificate. Further submission is that in the counter affidavit submitted by the State the factum of supply of the raw materials as mentioned in the petitioner's petition has not been denied and accordingly the said fact should be deemed to have been accepted by the State. Further submission is that the petitioner has been languishing in jail since 02.12.2021 and he has been sufficiently punished for the alleged wrong and the offence of 409 IPC is not made out in this case.



Learned APP has opposed the prayer for bail and submitted that the petitioner earlier prayed for the relief of anticipatory bail vide Cr. Misc. No. 66035 of 2019 in which he gave his undertaking to complete the pending work of concerned scheme within three months and on relying that under-taking the bench concerned granted him provisional anticipatory bail for a period of four months but even then the petitioner did not complete the said work and, thereafter, the FIR was lodged and in respect of the position of the alleged work a latest certificate issued by concerned Panchayat Secretary has been filed along with counter affidavit in which it is clearly mentioned that the petitioner has not completed the concerned work and only 35-40% of the work has been completed.

Heard both the sides and perused the FIR, annexures attached to the petition and also perused the counter affidavit filed by the State. The petitioner has mainly relied upon Annexure-4 with regard to his defence that the work for which agreement was made has been completed by him. But against the said defence the State by filing annexure-c has clearly denied the factum of completion of the work and there is serious contradiction in between annexure-c and annexure-4. Surprisingly both the documents have been issued by the same authority hence,



reliance can not be placed on annexure-4. It has been mainly contended by petitioner's counsel that the petitioner was mainly bound to supply the materials in respect of the alleged work for which the agreement was made and according to the terms of said agreement he supplied the required materials worth Rs. 12,01,026/-. Though the petitioner has filed copies of some invoices showing the purchase of raw materials required for the construction of the alleged work but as per the agreement deed of which copy has been filed by petitioner's counsel it does not appear that the petitioner was only bound to supply the construction materials in respect of the alleged work of Nal Jal Yagna and the said defence does not find support from the deed of agreement and accordingly I find no force in the defence of the petitioner. As per paragraph no. 3 of the petition against the petitioner four more cases under Section 409 IPC have been lodged and according to the counsel of the State the allegation made in the said cases is almost of the same nature like the present case. Considering these facts in the opinion of this Court it is not a fit case for grant of bail to the petitioner. Accordingly his prayer for bail stands rejected.

(Shailendra Singh, J)

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