

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20968 of 2022

Arising Out of PS. Case No.-707 Year-2021 Thana- SIWAN CITY District- Siwan

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OME PRAKASH SUMAN @ OM PRAKASH SUMAN Son of Yamuna Prasad Resident of Village - Kuwar Bathua, P.S.- Fulwaria, District - Gopalganj. At present R/O- Ramdeo Nagar Mahadeva, P.S.- Siwan Muffasil, District - Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shri Rahuldhar Dubey, the Executive Officer, Siwan Nagar Parishad, Siwan.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s :	Mr.Ajay Kumar Pandey
For the Opposite Party/s :	Mr.Bharat Bhushan
	Mr.Ravi Bhushan Verma

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 21-11-2022 Heard learned counsel for the parties.

The petitioner apprehends his arrest in a case registered for the offence under Sections 467, 468, 471, 420, 409, 120(B)/34 of the Indian Penal Code.

As per the prosecution case, this petitioner alongwith other accused persons embezzled amount of Rs. 49,91,500/- and Rs. 4 crore under Scheme No. 15 / 2017-18 for widening five feet road south to the stretch of Tarwara More to Hospital More road and for purchasing land for dumping of garbage respectively.

It is submitted on behalf of petitioner that at the relevant time, this petitioner was posted as Junior Engineer. It is



further submitted that initially an inquiry was conducted, with regard to quality of the work for widening of road, by the Department Laboratory, Chapra and no infirmities was found by the Department Laboratory report dated 01.09.2017. So far as allegation of entire payment with deduction of 10% is concerned, same was paid after extension of time, so it is not necessary to deduct any amount. In fact, the Chairman of the Committee committed irregularities in the said work and ignoring the report of petitioner, withdrew the security money, whereas, as per tender notice, security money was to be withdrawn after three years i.e. after 20.02.2021 and as such, petitioner has committed no irregularity in the work. Petitioner has got clean antecedent.

However, learned counsel for the informant, by filing counter affidavit, vehemently opposes the prayer for anticipatory bail of petitioner. In paragraph 9 of the counter affidavit, following has been stated:

“...it is stated that as per the P.C.C. work of road:- length 4560 feet, width 5 feet, thickness 12 feet & sandwork 6 feet, but in enquiry, length 3856 feet, width 1 feet, thickness 5 feet to 11 feet, but no sand work was found. The petitioner was J.E. but he submitted measurement report as J.E. and Asstt. Engineer showering work as per the estimate not according to actual work. The amount of Surakshit jama was refundable after 3 years i.e.



after 20.02.2021 but on the basis of Nil bill submitted by the petitioner, the same was refunded on 8.8.2019. In this way, the involvement of petitioner was found in embezzlement @ Rs. 49,91,500/-."

Considering the submissions made on behalf of the parties, materials available on record and the test report of Department of Laboratory, Chapra as well as clean antecedent of petitioner, the prayer for anticipatory bail is allowed. In the event of arrest/surrender within a period of six weeks from today, let the above named petitioner be enlarged 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 C.J.M., Siwan in connection with Siwan Town P.S. Case No. 707 of 2021, subject to condition as laid down under Section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Singh, J)

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