

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33459 of 2021

Arising Out of PS. Case No.-17 Year-2021 Thana- BELHAR District- Banka

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Bimal Kumar @ Vimal Kumar Son of Sri Radheshyam Yadav Resident of
Village Kamal Nagar Colony, P.O.- Mirjanhat, P.S.- Barbarganj (Mujhaidpur),
District - Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner	:	Mr. Ashok Kumar Choudhary, Sr. Advocate Mr. Akshansh Ankit, Advocate
For the Opposite Party	:	Mr. Jharkhandi Upadhyay, APP Mr. Anand Kishore Choudhary, APP

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 04-04-2022 Heard the parties.

The petitioner apprehends his arrest in connection
with Belhar (Khesar) P.S. Case No. 17 of 2021 registered for the
offences under Sections 406. 409 and 420 of the Indian Penal
Code.

On 21.03.2022, following order was passed which is
as follows:-

*“Learned counsel for the petitioner is
permitted to remove defect(s), as pointed out by the
office, if any, within a period of four weeks from
today.*

*Heard learned counsel for the petitioner
and learned Additional Public Prosecutor for the
State.*

*The petitioner apprehends his arrest in
connection with Belhar (Khesar) P.S. Case No.
17/2021 registered for the offences punishable*



under Sections 406/409/420 of the Indian Penal Code.

The allegation against the petitioner is that he has singed the MB Book showing that the boring was done for 300 ft. whereas the actual pipe used is only of 104 ft. and the rest of the amount has been defalcated by the Junior Engineer and other accused persons.

Learned counsel for the petitioner has relied upon Annexure-2 written by one Bhola Ravidas and one Alam who are the Ward Chairman and Ward Secretary. They have tried to certify that there is no defalcation by the Engineer.

It seems that all the persons who are party to this defalcation are trying to save one another.

The District Magistrate, Banka is directed to get the measurement done himself and send a report to this Court with regard to the actual state of affairs and, thereafter, this Court will take decision on the anticipatory bail of the petitioner.

The report by District Magistrate, Banka, must reach this Court before the next date of hearing i.e., 04.04.2022.

Let this order be communicated to the District Magistrate, Banka through FAX/e-mail for compliance.”

The report of the District Magistrate, Banka, pursuant to the order dated 21.03.2022 of this Court, has been received. From the report it appears that the allegations levelled against the petitioner have been found true.

Learned senior counsel for the petitioner submits that the petitioner is an young man and he has no mala fide intention and he has been singled out for the alleged crime whereas others have not been made accused. He also submits that the petitioner



is ready to pay the defalcated amount of Rs.50,000/- subject to the result of the criminal case.

Considered the submissions of the parties.

Petitioner is said to have signed the measurement book which shows that the pipes in the boring were inserted at the depth 300 ft. whereas on measurement, it has come that actual pipe inserted is only 104 ft.

The crime committed by the petitioner is serious in nature. If the engineers, like the petitioner, who were assigned to supervise the contract work, are involved in this type of crime, public at large will suffer and are suffering and water supplied with arsenic is being used by general public. The Government has come out with a scheme to supply water without arsenic to the general public.

Considering the above facts, I am not inclined to grant anticipatory bail to the petitioner. This application is dismissed.

Petitioner is directed to surrender in the court below within four weeks from today and pray for regular.

(Sandeep Kumar, J)

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