

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28943 of 2022**

Arising Out of PS. Case No.-180 Year-2019 Thana- CHAND District- Kaimur (Bhabua)

Kumar Mritunjay, Son of Late Tej Narayan Singh, Resident of Village -
Nayee Sarai Professor Colony, Police Station- Biharsharif, District - Nalanda.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. N.K. Agrawal, Senior Advocate Mr. Mukesh Kumar Rana, Advocate
For the Opposite Party/s :	Mr. Syed Mojibur Rahman, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 29-08-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in connection with Chand P.S. Case No. 180 of 2019 registered for the alleged offences under Sections 188, 420, 409 and 120B of the Indian Penal Code.

As per prosecution case, the petitioner was awarded contract for a construction work of total value of Rs. 2,72,70,457/-. However, the petitioner did work for only Rs. 92,23,589/- and even out of this amount, work for Rs. 80,00,000



was done only towards soil work and allegedly he misappropriated the balance amount.

The learned senior counsel appearing for the petitioner submits that the measurement book submitted by the Executive Engineer, Minor Irrigation Division, Kaimur at Mohania shows the petitioner has completed 73% of the work and on this account the work for an amount of Rs. 1,99,00,000/- has been completed. Against the work completed, the petitioner has received the payment of 1,37,00,000/- only. This shows that the petitioner has done more work than the payment made to him. The learned senior counsel further submits that as per inquiry report submitted by the committee, petitioner has done the work and there is some irregularity. Since, the work is still in progress and no final work has been shown to have been done, irregularity, if any, may be rectified. Thus, the learned senior counsel submits that it is clear from the material on record that the petitioner has not misappropriated the money as alleged. He is in custody since 14.01.2022 and charge-sheet has been submitted.

Learned APP opposes the prayer for bail submitting that the petitioner who started the work, did not complete work as per agreement and misappropriated the government fund.



Having regard to the submissions made hereinabove and considering the fact regarding completion of 73% of work in contrast to the allegation made in the FIR and the said work being verified through inquiry and measurement book of executive engineer and also taking into consideration the period of custody and submission of charge-sheet, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-IV, Kaimur at Bhabua in connection with Chand P.S. Case No. 180 of 2019, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and the following conditions:

- (i) One of the bailors will be Arbind Kumar Singh, brother-in-law of the petitioner, who has sworn the affidavit in this case.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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