

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42972 of 2021

Arising Out of PS. Case No.-148 Year-2021 Thana- KATORIYA 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. Aryan Sinha, Adv.

For the Opposite Party/s : Ms. Anita Kumari Singh, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

2 07-01-2022 The petitioner seeks regular bail in connection with Katoria P.S. Case No. 148 of 2021 registered for the offence punishable under Sections 406, 420, 467, 468 and 471 of the Indian Penal Code.

The allegation is regarding the Rural Works Department having entered into an agreement/ contract with the petitioner herein for construction of road from Baghmari to Tetariya More and Tulsivaran to Dabhanga village. It is alleged that the petitioner had to complete the work in question as per the agreement by 18.11.2021. It is also alleged that though the work was to be commenced from 19.11.2020 but the petitioner failed to do so.

The learned counsel for the petitioner has submitted that the petitioner is innocent, has been falsely implicated in the present case and he is languishing in custody since 10.06.2021. The learned counsel for the petitioner has further submitted that the petitioner has been made an accused in one other case with more or less same and similar allegation, however, he has been granted



bail by a co-ordinate Bench of this Court in the said case. It is further submitted that at best the occurrence in question can be said to be a breach of the terms and conditions of the agreement for which appropriate remedies are prescribed for in the agreement itself and no criminal offence is made out qua the petitioner. It is further submitted that the informant should have invoked the remedies provided for in the agreement/ contract for breach of the same. Lastly it is submitted that if at all any action lies against the petitioner, civil action would be the appropriate remedy and no criminal case would lie against the petitioner for the offences alleged in the present case.

Per contra, the learned APP appearing for the State has vehemently opposed the prayer for regular bail.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the parties and taking into account the materials available on record, this court finds that the alleged occurrence animates from the breach of the terms and conditions of an agreement which do not warrant any penal action under the provisions of the Indian Penal Code and the informant is required to take recourse to the remedies provided for in the agreement itself. In fact the petitioner has stated in paragraph no. 11 of the present petition that the petitioner is willing to complete the work in question as per the terms of the agreement within a



reasonable time. Considering the aforementioned facts and circumstances of the case, I deem it fit and proper to admit the petitioner to the privilege of regular bail.

Accordingly, the petitioner, above named, is directed to be released on regular bail on furnishing bail-bonds of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Banka in connection with Katoria P.S. Case No. 148 of 2021.

(Mohit Kumar Shah, J)

Tiwary/-

U		T	
---	--	---	--

