

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40832 of 2022

Arising Out of PS. Case No.-10 Year-2021 Thana- KONCH District- Gaya

Gulabchand Chaudhary @ Gulabchandra Chaudhary, S/o Parmeshwar Chaudhary R/o village- Mahua Bigha (Mahuya Bigha), P.S.- Konch, District- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Umesh Kumar, Advocate

For the Opposite Party/s : Mr. Parmeshwar Mehta, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 21-10-2022 Heard Mr. Umesh Kumar, learned counsel for the petitioner and the learned APP for the State through virtual mode in view of COVID-19.

Let the defect(s) be removed within four weeks of the complete start of the physical Court in normal course.

The petitioner is in judicial custody in connection with Konch P.S. Case No.10 of 2021 instituted under Section 420, 406, 12(B) I.P.C.

The prosecution case, in short, is that the amount of Rs.11,39,800/- was withdrawn for the '*Mukhyamantri Gramin Payjal Nischay Yojna*' scheme from the account of WIMC but after 39 months, only work of Rs.8,81,667/- was done and accordingly it was alleged that rest amount of Rs.2,57,833/- was usurped by ward 'Adhyaksh' and ward 'Sachiv' and accordingly, the FIR was lodged against both of them.



Learned counsel for the petitioner submits that without going into the all the details of the work executed by the petitioner, the informant Panchayat Secretary rushed into lodging FIR against the petitioner who is Ward Secretary of Ward No.6 Gram Panchayat, Aslempur. It is his further submission that earlier the work was completed to the tune of Rs.8,81,667/- and later rest work of the scheme was also completed of Rs.2,40,758/-. However, some materials were not found to be good, accordingly the same were replaced by quality materials. He has put on record certificate of the informant (Annexure-2) to show that the entire work has been done and the balance amount of Rs.17,075/- has been sent back to the account and accordingly the work is satisfactory. It is his last submission on instruction that for the alleged delay in execution of work, the petitioner intends to pay sum of Rs.10,000/- to the Patna High Court Legal Services Committee irrespective of the result of the case.

Learned APP on the other hand opposes the prayer for bail and has submitted that after taking advance, even going by the averment, he deliberately delayed the execution of the work and as such does not deserve bail.

Taking into account the aforesaid fact that the same



relates to execution of work for which the petitioner had taken advance and subsequently as per the averment made in the bail application, the rest of the work has been executed and the remaining amount of Rs.17,075/- has been put back into the account, a certificate to this effect has been issued by the informant Panchayat Secretary (Annexure-2 to the bail application) he is in custody since 30.04.2022 and do not have criminal antecedent, charge-sheet stands submitted, this Court is inclined to grant him privilege of bail.

Let the petitioner be released on bail on furnishing bail bond of Rs.20,000/-(Rupees Twenty Thousand) with two sureties of the like amount each in connection with Konch P.S. Case No.10 of 2021 subject to payment of Rs.10,000/- towards the Patna High Court Legal Services Committee to the satisfaction of learned Judicial Magistrate, Ist Class, Gaya, subject to following conditions:

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his/her



bail bond by the Trial court itself;

(iii) the petitioner shall appear before the concerned police station every fortnight for next six months to mark attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioner shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

Prakash Narayan /-

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