

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52747 of 2021

Arising Out of PS. Case No.-128 Year-2021 Thana- GORAUL District- Vaishali

Ashok Kumar @ Ashok Kumar Singh, Son of Late Jiwachh Singh @ Jiwak Singh, Resident of Village - Mansurpur Halaiya, P.S.- Goraul, Distt.- Vaishali. Bihar.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ranjan Kumar Singh, Advocate

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

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

4 23-08-2022 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 Goraul P.S. Case No. 128 of 2021 registered for the alleged offences under Sections 420 and 409 of the Indian Penal Code.

As per prosecution case, the allegation against the petitioner is that being the Secretary of Ward Implementation Management Committee, he defalcated Rs. 7,27,853/- along with co-accused Chairman from the Nal Jal Yojna.



Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. The Mukhiya of his Panchayat has been demanding gratification from the funds of Nal Jal Yojna and threatened him. He reported the incident to the Block Development Officer. The work of Nal Jal Yojna of ward no. 7 of Mansurpur Halaiya Panchayat was almost completed and measurement has been forwarded which shows the cost incurred on the work done for Nal Jal Yojna of Rs. 8,78,632/- but in connivance of Mukhiya, Panchayat Secretary and Junior Engineer, this second management book was prepared showing the work of Nal Jal Yojna was completed only for Rs. 2,08,697/-. Nal Jal Yojna was almost completed on 18.12.2019 and FIR was lodged on 12.03.2021. Learned counsel further submits that as almost all the Nal Jal Yojna was complete, the same Junior Engineer submitted the first measurement book showing that work was almost completed but the same Junior Engineer in connivance with Mukhiya, Panchayat Secretary and other officials prepared second measurement book for the same work showing it to the tune of Rs. 2,08,697/-. Based on the contradictory report, FIR has been lodged in this case. Charge sheet has been submitted in this case and the petitioner is in custody since 06.06.2021.



Learned APP for the State opposes the prayer for bail of the petitioner submitting that there appears two contradictory reports by the same Junior Engineer, though it has been submitted by him that the Investigating Officer has filed a counter affidavit certifying the genuineness of the measurement book as claimed by the petitioner.

Perused the records.

Having regard to the submission made hereinabove and considering the fact that it has been stated on oath on behalf of the petitioner that he has completed the work of Nal Jal Yojna and this fact has been mentioned in the measurement book earlier submitted by the same junior engineer and the same has been admitted by the Investigating Officer and further having regard to the submission of charge sheet and custody of the petitioner, 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 A.C.J.M. Vaishali in connection with Gorwal P.S. Case No. 128 of 2021, subject to the following conditions :

- (i) One of the bailors will be a close relative of the petitioner.
- (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.

Coming back to the counter affidavit filed on behalf of the State, it appears that the copy of the measurement book which has been filed on behalf of the petitioner showing work has been done for an amount of Rs.8,78,632.41 has been found to be genuine and the amount is stated to be correct. This brings into the question the measurement book which has been made the basis for registration of the present case, i.e., Goraul P.S. Case No. 128 of 2021 showing Rs. 2,08,697/- as the amount for which work has been done. It appears to be purportedly forged and fabricated. The prosecution initiated on the basis of such forged measurement book is undoubtedly malicious and persons concerned for initiating this prosecution must be taken to task.

Let a copy of this order be sent to the concerned District Magistrate and the Superintendent of Police for necessary action and submitting a report within three months.

(Arun Kumar Jha, J)

V.K.Pandey/-

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