

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57857 of 2021

Arising Out of PS. Case No.-435 Year-2020 Thana- JOGAPATTI District- West Champaran

Subhash Baitha, S/O Jhallu Baitha, R/O Village- Mishrauli Darwalia, P.S-
Yogapatti, District- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Shrivastava, Advocate

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

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

2 06-04-2022 Learned counsel for the petitioner is permitted to remove the 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 APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Yogapatti P.S. Case No. 435 of 2020 for the offences punishable under Sections 420, 409, 427/34 of the Indian Penal Code.

As per prosecution case, it is alleged that on account of negligence on the part of the President of WIMC and Secretary in execution of the work under Mukhyamantri Gramin



Drinking Water Nishchay Yojana at Gram Panchayat, Hathiya, water tower was collapsed and it is further alleged that due to collapse of structure of water tower, huge loss was caused to the public exchequer.

It is submitted on behalf of the learned counsel for the petitioner that the petitioner is the Ward Member and from bare perusal of the F.I.R. as well as enquiry report submitted by the three men committee, which is the part of the F.I.R., it appears that there is no allegation of defalcation, rather it is alleged that though the materials used in construction of water tower structure have been found to be as per the standard but only because of the non-observance of the technical directions and the negligence, the structure get collapsed and at best it is a case of negligence and not a case of defalcation of Government money. It is further submitted that after collapse of structure of Water Tower, the same has again been constructed by the petitioner and it is working properly. It is next submitted on behalf of the petitioner that the co-accused Chandra Kishore Ram, Ward Secretary, has already been granted bail by the Court below itself. The petitioner is in custody since 18.04.2021.

On the other hand, learned APP for the State submits that because of the negligence on the part of these accused



persons, a huge loss has been caused to the Government, which is a public money.

Having considered the submissions made on behalf of the parties and taking into consideration the fact that enquiry report speaks about the negligence on the part of the petitioner because of non-observance of the Technical advise, which resulted into collapse of the structure and the fact that the petitioner has got no criminal antecedent and is in custody since 18.04.2021, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Bettiah, West Champaran in connection with Yogapatti P.S. Case No. 435 of 2020 with the following conditions:

(a) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court below and shall remain physically present as directed by the Court below and in case of his absence on two consecutive dates without any cogent reason, his bail bond shall be cancelled by the Court below.

(b) If the petitioner tampers with the evidence or the witnesses, in that case the prosecution will be at liberty to move



for cancellation of bail.

(Harish Kumar, J)

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