

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46241 of 2022

Arising Out of PS. Case No.-94 Year-2020 Thana- KUNDWACHAINPUR District- East
Champaran

MD IRFAN ALAM S/o Qamrul Alam Resident of Mohalla- Agarwa, P.S.-
Motihari, District- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Asif Kalim, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

3 01-02-2023 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect(s), if any, as pointed out by the
office, be removed within four weeks.

The petitioner is apprehending arrest in connection
with Kundwa Chainpur P.S. Case No. 94 of 2020 under sections
406 and 409 of the Indian Penal Code.

As per the prosecution story, the case of the
petitioner was that he is shopkeeper and his duty was only to
supply the materials and has nothing to do with the execution of
the work. Further, the documents on record would show that out
of Rs. 11,11,000/- the work to the tune of Rs.10,97,884/- have
already been executed.



Considering the aforesaid submission, this Court on 4.1.2023 had directed the State to file counter affidavit which has since been filed duly executed by Dy. S.P.(headquarters), Motihari, Bihar and it is appropriate to incorporate paragraphs 4 to 6 of the said counter affidavit as follows:

"4. That in compliance of this Hon'ble Court order, Sub Divisional Police Officer, Sikrahna vide his letter no. 227 dated 28.01.23 conducted the investigation on ground level.

5. That in the investigation, Supervision report and Report-2 this case was found true against the petitioner under section 406/409 of I.P.C. but during supervision conducted by Sub Divisional Police Officer, Sikrahna on 28.01.2023, statement of current Mukhiya, Panchayat Sachiv and statement of informant Manju Devi was recorded and in their statement all witnesses have submitted that the case was lodged by Manju Devi for non completion of work assigned to the petitioner but now the work has been completed by the petitioner.

6. It is further submitted that after completion of work the petitioner has also refunded the remaining 13000/-which was left after completion of



work to the Bank account of Zila Panchayat."

Taking into account the fact that the work has been completed and the remaining amount has been refunded, this Court is inclined to grant him the privilege of anticipatory bail.

Let the petitioner be released on bail, in the event of his arrest or surrender within a period of four weeks from the receipt of this order, on furnishing bail bond of Rs. 25,000/- (Twenty five thousand) with two sureties of like amount each to the satisfaction of learned Sub Divisional Judicial Magistrate, Sikrahna at Dhaka, East Champaran, in connection with Kundwa Chainpur P.S. Case No. 94 of 2020 subject to the conditions as laid down under Section 438(2) of the Cr.P.C. with further 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 co-operate in the investigation and make himself available to the police as and when required;

(iii) 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 bail bond by the Trial Court itself;



(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 his bail bonds.

(Rajiv Roy, J)

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