

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55377 of 2022

Arising Out of PS. Case No.-292 Year-2022 Thana- BARACHATTI District- Gaya

1. Mohiuddin Miyan @ Moinuddin Mian Son Of Late Md. Halim @ Hallim Mian R/O Village- Pandeya, P.S.- Barachatty, Distt.- Gaya
2. Anvar Ansari @ Anwar Mian Son Of Md. Hanif Miyan @ Hanif Miyan R/O Village- Pandeya, P.S.- Barachatty, Distt.- Gaya
3. Bhola Kumar Son Of Late Saryu Chaudhary R/O Village- Nauagardan, P.S.- Barachatty, Distt.- Gaya

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Sri Suresh Prasad Singh Son Of Late Mahavir Prasad Singh R/O Village- Mankoshi, P.S.- Bodh Gaya, Distt.- Gaya.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sandip Kumar Gautam, Advocate.

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

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 16-02-2023 Learned counsel for the petitioners is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Mr. Sandip Kumar Gautam, learned counsel for the petitioner and learned APP for the State.

The petitioners seek regular bail, who are in custody in connection with Barachatty P.S. Case No. 292 of 2022, registered for the offences punishable under Section 409 of the Indian Penal Code.

The prosecution case is based on a written report filed



by the Panchayat Secretary, Kahudag basing upon Letter No. 370 dated 05.04.2022, issued by the Block Development Officer, Barachatty, Gaya, alleging therein that the work assigned to the petitioners under Mukhya Mantri Sat Nischay Yojana and Gramin Pay Jal Yojana, there were some irregularities, apart from the work has not been executed as per the guidelines of the State Government.

Learned counsel appearing on behalf of the petitioners submits that the petitioner no.1 happens to be Ex Ward Secretary, petitioner no.2 Ex Ward Member of Kahudag Panchayat under Barachatty Block of Gaya District, whereas the petitioner no.3 is Ex Ward Secretary of Kahudag Panchayat under Barachatty Block of Gaya District. It is submitted that from the FIR, it is evident that it is not the case of defalcation of government money rather it is alleged that certain irregularities have been conducted as the work has not been executed in accordance with the guidelines issued by the State Government. He further drawn the attention of this Court to the letter as contained in Memo No.170 dated 25.02.2022, which is the part of the FIR and submits that from perusal thereof, it is evident that the measurement book clearly shows that all the work has been done, however, there was only some shortcomings which



surely shows the negligence on the part of the petitioners. He next submits that in an identical situation where the irregularities have been conducted in another ward the co-accused has been allowed privilege of anticipatory bail by learned Co-ordinate Bench of this Court in Cr. Misc. No. 56786 of 2022 vide order dated 09.02.2023. He lastly submits that the petitioners are men of fair antecedents and are in custody for over a period of more than eight months.

On the other hand learned APP for the State vehemently opposes the bail application and submits that from the materials on record it is evident that irregularities have been found in execution of government scheme.

Regard being had to the submissions made on behalf of the parties and considering the fact that the work has been completed and it is a case of irregularities on account of the negligence on the part of the petitioners and not a case of defalcation of government money, coupled with the fair antecedent of the petitioners, let the petitioners, named above, be released on bail on furnishing bail bonds of Rs.10,000/- (Rupees ten thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, Sherghati, Gaya in connection with Barachatty P.S.



Case No. 292 of 2022, subject to the condition that one of the bailors will be the close relatives of the petitioners with further conditions which are as follows:-

(i) The petitioners will cooperate in conclusion of the trial.

(ii) They will remain present on each and every date of trial till disposal of the case.

(iii) They will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, their bail bonds will liable to be cancelled.

(Harish Kumar, J)

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