

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61694 of 2023

Arising Out of PS. Case No.-35 Year-2023 Thana- BELA District- Sitamarhi

1. Kalam Rain @ Abdul Kalam, S/O Md. Taslim Rain,
2. Ruksana Khatoon @ Rukhsana Khatoon, Wife of Md. Ahmad Rain

Residents of village- Gram Panchayat Raj Manpaur, P.S-Bela, District-Sitamarhi

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr.Mritunjay Kumar Nirala, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 06-12-2023 Heard learned counsel for the petitioners and learned
APP for the State.

2. In the present case, the petitioners are apprehending their arrest in connection with Bela P.S. Case No. 35 of 2023 registered for the alleged offences under Sections 406, 409, 420/34 of the Indian Penal Code.

3. As per prosecution case, the allegation against the petitioners is that while working as Ward Secretary and Ward Member, respectively of Ward No.9 of Gram Panchayat Raj Manpaur, they made excess withdrawal of amount from the scheme of '*Mukhyamantri Gramin Payjal Nischay Yojna*' and '*Mukhyamantri Gramin Gali-Nali Pakkikaran Nischay Yojna*' without performing the complete work.



4. The learned counsel for the petitioners submits that the petitioners performed their part of work and measurement book shows work of Rs.13,40,705/- and Rs.9,64,566/-, respectively of the two schemes were completed. Total allocation was Rs.23,48,397/- and Rs.23,46,705/- had been withdrawn by the petitioners. Out of the said amount, total work of Rs.23,05,271/- had been completed and only work for Rs.41,516/- has been pending as shown in the measurement book. The learned counsel further submits that there was no intention to defalcate any money and if any money has been withdrawn in excess, the petitioners are ready to deposit the same. Under the circumstance, no offence under Sections 406, 409, 420/34 IPC is made out against the petitioners. The learned counsel further submits that the petitioners have no criminal antecedent.

5. Learned APP opposes the submissions made on behalf of the petitioner. The learned APP submits that from page no. 22 of Annexure P-2, it appears that not only the excess amount was withdrawn, but proof of performance of the work is also lacking.

6. Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the fact that substantial work appears to be done by the petitioners



and further considering the fact that the petitioners are ready to deposit the remaining amount of Rs.41,516/-, let the petitioners, above named, in the event of their arrest or surrender before the court concerned within a period of eight weeks from today, be released on bail, on furnishing bail bond of Rs. 20,000/- (twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Sadar, Sitamarhi, in connection with Bela P.S. Case No. 35 of 2023, subject to condition that **the petitioners will deposit the aforesaid remaining amount of Rs.41,516/- in the account of the State Government and file a receipt thereof before the learned court below at the time of furnishing their bail bonds** and further conditions mentioned in Section 438(2) of the Cr.P.C. and the following conditions:

- (i) One of the bailors will be a close relative of the petitioners.
- (ii) The petitioners will remain present on each and every date fixed by the court below, if so required by the learned trial court.

(Arun Kumar Jha, J)

V.K.Pandey/-

U		T	
---	--	---	--

