

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.66943 of 2023**

Arising Out of PS. Case No.-152 Year-2022 Thana- SIWAIPATTI District- Muzaffarpur

Birendra Kumar Yadav Son Of Late Ram Sagar Rai R/O Vill - Haresar, P.S. -  
Shiwaipatti, Distt. - Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

**Appearance :**

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

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

**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR**  
**ORAL ORDER**

2      01-11-2023                      Heard Mr. Mithilesh Kumar, learned counsel  
  
appearing on behalf of the petitioner and learned Additional  
  
Public Prosecutor for the State.

2. The petitioner apprehends his arrest in connection  
with Shiwaipatti P.S. Case No. 152 of 2022, registered for the  
offences punishable under Sections 420 and 409/34 of the  
Indian Penal Code.

3. Allegedly the petitioner, who happens to be the  
Ward member of Ward No. 16 in collusion with Ward Secretary  
has withdrawn the excess amount under Chief Minister Rural  
Drinking Water Scheme causing misappropriation of public  
money.

4. Learned counsel appearing on behalf of the



petitioner submits that from the F.I.R. and the materials available on record, it is evident that the entire case is based upon the wrong measurement of the work in question, though, it is the collective work and the local BDO, Mukhiya, Ward member and Ward Secretary, all are responsible for execution of the work. He further submits that in fact the entire work has already been completed, but as it was not found fit with measurement framework, the present case has been instituted. That apart, certificate proceeding has also been initiated against the petitioner and Ward Secretary for recovery of the amount, which is said to have been embezzled. Further submission has been made that co-accused person, namely, Sunil Kumar, who happens to be Ward Secretary, has been allowed the privilege of anticipatory bail by learned Co-ordinate Bench of this Court in Cr. Misc. No. 13438 of 2023 *vide* order dated 23.05.2023, the copy of which has been marked as Annexure-2 to this petition. The petitioner undertakes that he will fully cooperate in the investigation or in the proceedings of this Court.

5. On the other hand, learned counsel for the State opposes the bail application and submits that the petitioner is responsible for the work in question and, thus his culpability in misappropriation of fund cannot be ruled out.



6. Regard being had to the submissions made on behalf of the parties and considering the fact that co-accused persons having identical allegation has been allowed the privilege of anticipatory bail and moreover, the entire case is based on the measurement of the work in question. All the more, the work is to be performed by the Ward Implementation Managing Committee, wherein several other persons are responsible, let the petitioner abovenamed be released on bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of the learned S.D.J.M (East) Muzaffarpur in connection with Shiwaipatti P.S. Case No. 152 of 2022, subject to the conditions laid down in Section 438(2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioner.

**(Harish Kumar, J)**

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