

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11973 of 2024

Arising Out of PS. Case No.-349 Year-2021 Thana- SAHPUR District- Bhojpur

1.

Renu Devi Wife Of Sunil Kumar Singh R/O-Paschim Tola, Maharaja, P.S.-
Shahpur, Distt.-Bhojpur, Bihar
2.

Anil Datt Sharma Son Of Narayan Datt Sharma R/O-Ward No. 12,
Maharaja, P.S.-Shahpur, Distt.-Bhojpur, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pankaj Sinha, Advocate
For the Opposite Party/s : Mr. Parmeshwar Mehta, APP

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

420-07-2024

Heard Mr. Pankaj Sinha, learned counsel appearing
on behalf of the petitioners and Mr. Parmeshwar Mehta, learned
APP appearing on behalf of the State.

2. The petitioners apprehend their arrest in connection
with Shahpur P.S. Case No. 349/2021 registered under Sections
420, 409, 406 and 34 of the Indian Penal Code.

3. As per the allegation made in the FIR, the certain
work under the *Saat Nishchay Nali-Gali Yojna*, relating to ward
No. 12, Village- Maharaja, Post- Bharauli, P.S.- Shahpur,
District- Bhojpur has not been completed by the petitioners
within time.

4. Mr. Pankaj Sinha, learned counsel appearing on

behalf of the petitioners submits that from the very perusal of the FIR, it would appear that an investigation was held as per the direction of this Court passed in C.W.J.C. No. 7669 of 2021 and after holding of enquiry, it was found that the work was not completed within time. However, there is no allegation that the petitioners have not been able to complete the work within time. Learned counsel submitted that the petitioners have not defalcated money. The quantum of loss has been incorrectly shown to be Rs. 6,000,00/- attributable to the petitioner is not supported by the measurement book, duly maintained by the Executive Engineer. On this ground, learned counsel submits that petitioners being Ward Member-cum-Chairman and Ward Secretary-cum-Ward Implementation and Management Committee Member and the work having been executed by a contractor, no case is made out against the petitioners. The petitioners have clean antecedent. However, he submitted that both the petitioners have willingly decided to deposit a sum of Rs. 1,50,000/- each in the treasury subject to the result of trial. On these grounds, the petitioners seek to be released on bail.

5. *Per-contra*, learned counsel appearing on behalf of the State has vehemently opposed the bail application and has submitted that petitioners were involved in defalcation of public

money. The petitioner no. 1 was the Ward Member-cum-Chairman of the Ward Implementation Committee and petitioner no. 2 was Ward Secretary-cum-Ward Implementation and Management Committee Member and the work was to be carried out under their supervision and as such the petitioners' complicity in committing fraud including defalcation of the public money, as well as, delay in execution of the *Saat Nischay Nali-Gali Yojana*, petitioners must not be released on anticipatory bail.

6. Considering the rival submissions made on behalf of the parties, the petitioners have voluntarily wanted to deposit an amount of Rs. 1,50,000/- each in treasury, subject to the result of the final outcome of the trial. The Block Development Officer, is made responsible for accepting the cheque or any instrument from both the petitioners, who have found proper to deposit an amount of Rs. 1,50,000/- each, and file the acknowledgment before the District Court and give a copy of the same to the petitioners.

7. The petitioners are directed to surrender before the District Court on or before 06.08.2024, with specific affidavit to the extent that they have handed over their individual cheque or any instrument amounting to Rs. 1,50,000/- each, to the Block

Development Officer on or before 30.07.2024.

8. In case of failure on the part of the Block Development Officer, in spite of the due diligence taken by the petitioners, in handing over the cheque or any instrument amounting to Rs. 1,50,000/- each, the instrument is required to be accepted by the District Court and the petitioners are directed to be released on anticipatory bail to the satisfaction of learned Additional Chief Judicial Magistrate – I, Bhojpur, Ara in connection with Shahpur P.S. Case No. 349 of 2021 subject to the condition as laid down under Section 438(2) of the Cr.P.C.

9. It is made clear that till the above period, no coercive step shall be taken against the petitioners, in the aforesaid case.

10. Accordingly, the present bail application stands disposed of.

(Purnendu Singh, J.)

Ashishsingh/-
Sudhanshu/-

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