

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18624 of 2024

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

Akshay Kumar Chaudhary Son of Suryabali Choudhary R/o- Bhaurauli P.O.-
Bhaurauli P.S.- Shahpur Bhojpur, Bihar – 802165.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Piyush Kumar Pandey, Advocate.

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

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 13-09-2024 Heard Mr. Piyush Kumar Pandey, learned counsel

appearing on behalf of the petitioner and Mr. Madan Kumar,

learned APP appearing on behalf of the State.

2. The petitioner seeks pre-arrest bail in connection
with Shahpur P.S. Case No. 349 of 2021, registered under
Sections 420, 409 and 406/34 of the Indian Penal Code.

3. As per the allegation made in the FIR, the work
under *Saat Nishchay Nal Jal Yojna*, relating to Ward No. 1 of
Bharouli Panchayat has not been completed by the petitioner,
who is the ward secretary of Ward No.1, within time. It is
alleged that the petitioner has defalcated the government money,
but no specific amount has been mentioned in the F.I.R.

4. Learned counsel appearing on behalf of the
petitioner submits that from the very perusal of the FIR, it
would appear that an investigation was held, as per the



provision of this Court 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 petitioner has not been able to complete the work within time. He has not defalcated public money in any manner. Learned counsel further submitted that the petitioner has already deposited Rs. 25,000/- voluntarily in the treasury, subject to the result of trial considering the fact that other co-accused has also deposited voluntarily. On this ground, learned counsel submits that petitioner being Ward Secretary and the work having been executed by a contractor, no case is made out against the petitioner. The petitioner has clean antecedent. On these grounds, the petitioner seeks 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 petitioner was involved in defalcation of money. The petitioner's complicity in committing fraud including defalcation of the public money, as well as, delay in execution of the *Government Saath Nischay Nali Gali Yojana* work cannot be ruled out. As such the petitioner don't deserve to be released on bail.

6. Considering the nature of allegation made against the petitioner, as well as, the fact that petitioner has already



deposited an amount of Rs.25,000/- voluntarily in treasury, subject to the result of the final outcome of the trial and the FIR being not specific in respect of quantum of public money, having been defalcated by the petitioner in respect of Ward No. 1, I am of the opinion that the petitioner has, *prima facie*, made out a case to be released on bail.

7. The petitioner, above named, is directed to be released on pre-arrest bail, in the event of his arrest or surrender before the Court below within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, 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.

8. The Court below is directed to verify the criminal antecedent of the petitioner as stated in paragraph no. 3 of the bail application. If any other case is found pending against the petitioner as what has been stated in paragraph no. 3, this order will lose its force automatically.

9. The bail application stands disposed of.

(Purnendu Singh, J)

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