

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34537 of 2024

Arising Out of PS. Case No.-553 Year-2023 Thana- ARA MUFFSIL District- Bhojpur

SHIV JEE PRASAD SINGH @ SHIVJI PRASAD SINGH @ SHIVJEE PRASHAD S/O LATE SHIVDEEP SINGH R/O VILLAGE- MUHALLA-VISHNU NAGAR, BEHIND PAL MARKET, ARA, P.S- NAWADA, DISTT.-BHOJPUR.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sanjay Singh, Sr. Advocate Mr. Parmatma Singh, Advocate
For the Opposite Party/s	:	Mr. Jitendra Kumar Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 31-07-2024 Heard Mr. Sanjay Singh, learned Senior Counsel for the petitioner and learned APP for the State.

2. The petitioner apprehends his arrest in connection with Ara Muffasil P.S. Case No. 553 of 2023 for the offence registered under sections 409 and 34 of the Indian Penal Code lodged on 30.12.2023.

3. As per the prosecution story, the informant, a Junior Engineer with the Minor Irrigation Department, Ara, Sub-Division lodged the F.I.R. stating that the Ex-Mukhiya, Ram Tapasya Singh and the Ex-Panchayat Secretary, Shivjee Prasad Singh (the petitioner herein) defalcated Rs. 21,64,500/- which was allotted for the renovation of the Tube Wells of the



Panchayat. The aforesaid F.I.R. was lodged on the direction of the District Magistrate, Bhojpur at Ara.

4. Learned Senior Counsel for the petitioner submits that a perusal of the petition of the complainant, Deep Narayan Singh which was disposed of by the District Public Complaint Redressal Officer, Bhojpur on 07.10.2023 (which is part of the F.I.R.) would show that the contractor, Arun Thakur informed that in view of the work not completed, the amount was transferred to the account of the Mukhiya, Ram Tapasya Singh. He submits that though the name of the petitioner is also there that he along with Ram Tapasya Singh facilitated the said transfer.

5. He has also taken this Court to the letter of the contractor dated 06.08.2019 to submit that it was cleared by the Mukhiya, Ram Tapasya Singh. Lastly, learned Senior Counsel took this Court to the letter dated 25.08.2021 sent by the petitioner herein to the contractor informing him that as the entire work has not been completed, he should immediately return Rs. 18 lakhs. He submits that now the petitioner has retired, F.I.R. lodged if allowed the anticipatory bail, he shall be diligently appearing in trial.

6. Learned APP for the State, on the other hand,



opposes the prayer for anticipatory bail submitting that he being signatory to the money transaction, cannot shrug off his responsibility to the said illegality of transfer of amount in the account of the Mukhiya.

7. Though, allegation is there both against the Mukhiya and the petitioner herein, from the record it seems that the Mukhiya got the amount transferred in his account, the petitioner being the Panchayat Sachiv had the role of informing the superiors instead of just putting in his signature, taking into account the fact that now he has retired, do not have criminal antecedent and has undertaken to diligently appear in trial, this Court is inclined to extend him privilege of anticipatory bail.

8. Let the petitioner in the event of arrest or surrender within a period of four weeks from the date of receipt of the order, shall be released on anticipatory bail on furnishing bail of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate 7th, Bhojpur, Ara in connection with Ara Muffasil P.S. Case No. 553 of 2023 subject to condition as laid down under Section 438(2) of the Cr.P.C.

(i) one of the bailor should be the family members/relatives of the petitioner, who shall provide official



document to show his *bona fide*;

(ii) the petitioner shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial court itself;

(iii) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(iv) the petitioner shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

(Rajiv Roy, J)

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