

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77387 of 2023

Arising Out of PS. Case No.-193 Year-2023 Thana- BAHERA District- Darbhanga

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Pramod Kamti @ Pramod Kamati, Son Of Gachhuli Kamati @ Gochali
Kamti @ Gathuli Kamti, Resident Of Village - Pohaddi, Police Station -
Bahera, District - Darbhanga

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Md. Anis Akhtar, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 05-03-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. In this case, the petitioner is apprehending his arrest
in connection with Bahera P.S. Case No. 193 of 2023, registered
on 01.05.2023 for the offences under Sections 409 and 420 of
the Indian Penal Code.

3. As per prosecution case, petitioner while working
as Chairman of the Ward Implementation Management
Committee of Ward No. 12 of Pohaddi West Panchayat
defalcated an amount of Rs. 4,73,063/- while doing the work of
implementation of a Government scheme.

4. Learned counsel for the petitioner submits that the
petitioner is innocent and has been falsely implicated in this



case. Scheme No. 2/2019-20 under Chief Minister Nali Gali Yojna was carried out by the petitioner and co-accused Ward Secretary and the said work was completed and measurement book was prepared and submitted by the competent authority i.e., Technical Assistant/ Junior Engineer and on the basis of the said measurement, payment was made. Almost two years thereafter on the basis of certain complaints made, spot inquiry was conducted behind the back of the petitioner and on the basis of that, *ex-parte* report was submitted wherein it has been alleged that Rs. 4,73,063/- have been embezzled by the petitioner and other co-accused persons. Co-accused Ganga Jha has been granted regular bail by a Co-ordinate Bench of this Court vide order 30.08.2023 passed in Cr. Misc. No. 55225 of 2023. For the estimated cost of Rs. 1157400/-, work was done to the tune of Rs. 1142450/- and regarding the same measurement book was prepared. Prosecution story is not believable in the sense that after two years of completion of work, some inquiry was made behind the back of the petitioner, embezzlement was found and the petitioner and other co-accused persons were made accused in this case. From the facts of the FIR, no offence under Sections 409 and 420 of IPC is made out against the petitioner. Petitioner is having clean antecedent. Further a



certificate case for recovery has also been initiated against the petitioner.

5. Learned APP vehemently opposes the prayer for anticipatory bail submitting that detailed counter affidavit has been filed on behalf of the State. The present Technical Assistant assessed the different amount in implementation of work in relation to Gali Nali Yojna of Ward No. 12 and submitted the inquiry report and from the said inquiry report, embezzlement of Rs. 473063/- came to the knowledge. However, learned APP concedes that there is no allegation that the petitioner embezzled the fund rather it has been stated that the petitioner misused the Government fund by making excess payment of Rs. 4,73,063/- which caused financial loss to the Government.

6. Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the remoteness of allegation and also considering the possibility of false implication, let the petitioner above named, in the event of his arrest or surrender before the court concerned within a period of eight weeks from today, be released on bail, on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand Only) with two sureties of the like amount each to the



satisfaction of learned ACJM, Darbhanga/court concerned in connection with Bahera P.S. Case No. 193 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and other following conditions:

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner 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)

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