

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10302 of 2024

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

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Parmatma Gond S/o Late Chandrika Gond R/o Village Bharauli, PO and PS
Sahpur, District Bhojpur, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashutosh Nath, Advocate

For the Opposite Party/s : Mr. Parmeshwar Mehta, APP
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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 20-07-2024 Heard Mr. Ashutosh Nath, learned counsel appearing

on behalf of the petitioner and Mr. Parmeshwar Mehta, learned

APP appearing on behalf of the State.

2. The petitioner seeks anticipatory bail in connection
with Shahpur P.S. Case No. 349 of 2021, registered under
Sections 420, 409, 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 member of
Ward No. 1, Bharouli Panchayat, has not completed by the
petitioner, within time.

4. Mr. Ashutosh Nath, 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, though the quantum of loss has been incorrectly shown to be Rs. 23,600/- attributed to the petitioner is not supported by the measurement book, duly maintained by the Executive Engineer. On this ground, learned counsel submits that petitioner being Ward Member 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. However, he submitted that the petitioner has willingly decided to deposit a sum of Rs.23,600/- in the treasury, subject to the result of trial. 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 was the Chairman of the Ward Implementation Committee and the work was to be carried out under his supervision and, as such, 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, petitioner must not be released on



regular bail.

6. Considering the nature of allegation made on behalf of the parties, as well as, the petitioner has voluntarily wanted to deposit an amount of Rs.23,600/- in treasury, subject to the result of the final outcome of the trial. The petitioner is in custody since 28.09.2023 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, the point of commission of alleged offence was that the Chairman of the Ward Implementation Committee, who can only be held responsible to carry out the work by the concerned contractor and who had delayed in completing the work. I am of the opinion that the petitioner, *prima facie*, has made out a case to be released on bail.

7. The petitioner, above named, is directed to be released on bail upon furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate -Ist, Bhojpur, Ara in connection with Shahpur P.S. Case No. 349 of 2021 subject to the following conditions:

(i) Bailors should be local having sufficient



immovable property within the jurisdiction of the Court concerned.

(ii) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

(iii) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(iv) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bond.

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

8. The Block Development officer is made responsible for accepting the cheque or any instrument from the petitioner, who has found proper to deposit an amount of Rs.23,600/- and file the acknowledgment before the District Court and give a copy of the same to the petitioner.

(Purnendu Singh, J.)

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