

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.90268 of 2024

Arising Out of PS. Case No.-42 Year-2022 Thana- THALI District- Nawada

Surendra Prasad Yadav S/O Prayag Narayan Yadav Resident of village-
Lakhpatabbigja, Gobindpur, P.S.- Thali, District- Nawada

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Saurav Barial, Advocate
For the Opposite Party/s : Mr.Parmeshwar Mehta, APP

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 3 19-02-2025 1. Heard learned Counsel for the petitioner and
learned APP for the State.
2. This application, for grant of anticipatory bail,
arises out of Thali PS case no. 42 of 2022, disclosing offences
punishable under Section 409 and other allied sections of the
Indian Penal Code.
3. The prosecution story, as per the First Information
Report, is that petitioner being the Secretary of Ward
Implementation and Management Committee, Ward no. 1, Gram
Panchayat Baksooti in connivance with the Chairman of the
Ward Implementation and Management Committee withdrew a
sum of Rs. 37,57,587/- for executing the government scheme
concerning drinking water and street lane concretization and
misappropriated the government fund, as per report of Technical



Assistant. The three schemes which were to be completed by the petitioner and the co-accused were of Ward no. 1 of Baksooti Panchayat having Scheme no. 02/2019-20 for south of Lakhpat Bigha, Scheme no. 03/2019-20 for north of Lakhpat Bigha and Scheme no. 01/2019-20 for village-Ghanta. As per F.I.R., for Scheme no. 02/2019-20, total withdrawal was Rs. 11,85,200/- against which, as per the measurement book, the work of Nal-Jal was completed for Rs. 1,12,325/- and thus, petitioner and co-accused misappropriated a sum of Rs. 10,72,825/-. Similarly, for Scheme no. 03/2019-20, total withdrawal was Rs. 12,86,070/- against which, as per the measurement book, the work of Nal-Jal was completed for Rs. 1,12,124/- and thus, petitioner and co-accused misappropriated a sum of Rs. 11,73,946/-. Similarly, for Scheme no. 01/2019-20, total withdrawal was Rs. 12,86,317/- against which, as per the measurement book, the work of Nal-Jal was completed for Rs. 12,50,404/- and thus, petitioner and co-accused misappropriated a sum of Rs. 35,913/-. Thus, the allegation in nutshell is that petitioner being the Secretary of the Ward Implementation and Management Committee, in connivance with Chairman of the said Committee, had withdrawn the excess amount than the execution of actual work done under the



Scheme, therefore, has misappropriated a huge government money.

4. Learned Counsel for the petitioner submits that petitioner has not committed any offence as alleged. The petitioner has completed all the works of the Scheme under the Chief Minister's Seven Nischaya Scheme concerning drinking water (Nal-Jal) and concretization of the street lane as per the norms and schemes. Against withdrawal of Rs. 37,57,587/-, the petitioner has completed the work of worth Rs. 31,31,967/-, which will be evident from the measurement book, annexed with the supplementary affidavit. Learned counsel further submits that for Scheme no. 02/2019-20 i.e. for south of Lakhpat Bigha estimate was Rs. 11,85,200/- but the measurement done by the Executive Engineer as per the measurement book is for Rs. 6,25,620/-. It is due to the fact that the petitioner has constructed water tank using bricks and cement instead of tank to be installed with ladder and iron angle at the top. He placed measurement book of the year 2024 annexed with the supplementary affidavit and submits that total difference of all three projects come to Rs. 6,77,897/-, out of which, petitioner is ready to refund half of the amount to the tune of Rs. 3,38,948/-.



5. I have heard learned counsel for the parties and have perused the materials on record including the impugned order. The allegation against the petitioner in the F.I.R. is that he along with the co-accused withdrew a huge amount from the account of Ward Management Committee for implementation of Nal-Jal Scheme and concretization of street and misappropriated the government fund to the tune of Rs. 10,72,875/- for Scheme no. 02/2019-20, Rs. 11,73,946/- for Scheme no. 03/2019-20 and Rs. 35,913/- for Scheme no. 01/2019-20. The First Information Report has been lodged in the year 2022, specifically alleging the defalcation of government money. The measurement book which has been annexed is of the year 2024 and the petitioner has himself admitted that work of worth Rs. 6,77,897/- has not been completed. The learned Sessions Judge in the impugned order has taken note of the fact that petitioner is accused of embezzlement of government fund and the same is serious in nature. Defalcation of public funds by public functionaries has a serious consequence in the implementation of government schemes. Money intended for public welfare is siphoned off by incomplete implementation of the government schemes. The misappropriation leads to delay in project completion. Admittedly, the Scheme was of the year 2019-20 and the same



is still incomplete, as per the version of petitioner himself.
Accordingly, I am not inclined to grant anticipatory bail to the
petitioner.

6. This application is, accordingly, dismissed.

(Anil Kumar Sinha, J)

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