

(2021) 03 PAT CK 0126

Patna High Court

Case No: Criminal Miscellaneous No. 31647 Of 2020

Satish Kumar

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision: March 16, 2021**Acts Referred:**

- Indian Penal Code, 1860 - Section 406
- Code Of Criminal Procedure, 1973 - Section 438(2)

Hon'ble Judges: Ahsanuddin Amanullah, J**Bench:** Single Bench**Advocate:** Surendra Kumar Choubey, Shaheen Begum**Final Decision:** Disposed Of

Judgement

1. Heard Mr. Surendra Kumar Choubey, learned counsel for the petitioner and Ms. Shaheen Begum learned Additional Public Prosecutor (hereinafter referred to as the "APP"™) for the State.

2. The petitioner apprehends arrest in connection with Sasaram (Mufassil) PS Case No. 32 of 2019 dated 31.01.2019, instituted under Section 406 of the Indian Penal Code.

3. The allegation against the petitioner, as per the written report of Satendra Bind, Ward Member of Ward No.4, Gram Panchayat, Belarhi, is that the petitioner despite having been given the contract for certain work and also the money, had not completed the same.

4. Learned counsel for the petitioner submitted that no contract/agreement was ever executed between him and ward member and he was only

supplier of materials and in view of material supplied he has been paid. However, a categorical stand has been taken that he is ready to complete the work, and further, if still there is any outstanding dues against him, he undertakes to deposit it in the Government treasury.

5. Learned APP, from the case diary and the report from the Superintendent of Police, Rohtas submitted that though there is no agreement of contract but the petitioner was given work order and he has not completed the work despite taking money.

6. Earlier, as the report called by the Court was not submitted by the Superintendent of Police, Rohtas, within time, he was directed to submit an explanation. The same has been done in which it has been stated that he was on leave for a few days and due to inadvertence, the order of the Court could not be fully complied and the required information has now been furnished to the Court. He has tendered unconditional apology. In view thereof, the Court would not proceed on the issue.

7. Having considered the matter, as has been suggested by the learned counsel for the petitioner himself, let the District Magistrate, Rohtas constitute a team to look into the matter and get it verified with regard to the claim of the petitioner of having satisfactorily executed the works. It would be verified on the ground with regard to the amount of work done by the petitioner and as may be found, the petitioner would complete the work as per the required specifications/quality and deposit in government treasury any amount if found to have been paid to him beyond his entitlement.

8. The petitioner shall appear with a copy of this order before the District Magistrate, Rohtas on 31st March, 2021 in his official chamber at 11 AM.

Upon doing so, the District Magistrate, Rohtas shall get the exercise conducted latest by 30th April, 2021. After the work is satisfactorily completed

by the petitioner, latest by 30th April, 2021, certificate to this effect shall be issued by the concerned Ward Committee of the Gram Panchayat. The

same shall be produced by the petitioner before the Court within two weeks thereafter, upon which he shall be released on bail upon furnishing bail

bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, Rohtas in

Sasaram (Mufassil) PS Case No. 32 of 2019, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and

further (i) that one of the bailors shall be a close relative of the petitioner, and (ii) that the petitioner shall cooperate with the Court/police/prosecution.

Failure to cooperate shall lead to cancellation of his bail bonds.

9. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioner, to the notice of the Court

concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner.

10. Till 15th May, 2021, no coercive action shall be taken against the petitioner in connection with Sasaram (Mufassil) PS Case No. 32 of 2019.

However, if by 15th May, 2021, the petitioner does not appear before the Court along with the certificate issued by the concerned Ward Committee of

the Gram Panchayat, the present application shall be deemed to have been dismissed.

11. The application stands disposed off in the aforementioned terms.