GAHC010193402024

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : AB/2487/2024

RAJESHKUMAR R BANSAL
S/O RAMESHWARDAYAL NARAINDAS BANSAL
R/O 807/907, SOMNATH ENCLAVE D WING PARLE POINT, SURAT GUJARAT, SURAT-395007,
PH. NO. 9925115000

VERSUS

THE STATE OF ASSAM
REP BY THE PP, ASSAM

Advocate for the Petitioner : MR. B D KONWAR SR. ADV., MS. S BHUYAN,MR J SINGH,MS M ZOMUANPUII,MR P DOLEY,MS S JAIN

Advocate for the Respondent : PP, ASSAM, S RABHA(FOR INFORMANT),MR C GOGOI(FOR INFORMANT),MR G K DEKA(FOR INFORMANT),MR. A M BARUAH (FOR INFORMANT)

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

03.10.2024

Heard Mr. B.D. Konwar, learned Senior Counsel for the petitioner Sri Rajeshkumar R Bansal, who has filed this application under Section 482 of

Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS for short) with prayer for pre-arrest bail as he is apprehending arrest in connection CID Police Station Case No. 05/2024 under Sections 120B/255/257/260/406/418/419/420/465/467/468/471 of the Indian Penal Code, 1860 (IPC for short).

2. Heard Mr. Vikas Gupta, learned counsel for the informant and Mr. D. Das, learned Additional Public Prosecutor for the respondent State.

3. The FIR unfolds that the complaint Sri Deepak Tyagi, Secretary of M/S Sushila Gramodyog Sansthan has alleged fraudulent activities by Mr. Partha Bhardwaj and other accused named in the FIR. He has been cheated to the tune of Rs.6.11 Crores by the accused conjointly. Mr. R.B. Thakur along with the petitioner Mr. Rajesh Bansal approached the complainant regarding several projects of the Government of Assam posing as Consultants. Mr. V. Srinivasulu was introduced to the complainant and he was assured that work orders can be obtained from the Matak Autonomous Council (MAC for short) and other departments.

4. Mr. R.B. Thakur emphasized his contacts with the Government of Assam, suggesting that he could facilitate contracts for the firm M/S Sushila Gramodyog Sansthan. Then, R.B. Thakur and the petitioner Rajesh Bansal, who are closely associated with Mr. V. Srinivasulu, requested the complainant to provide the relevant documents for empanelment of the complainant's firm with the MAC for contracts and supplies. After the aforesaid registration of the complainant's company, a meeting was arranged with the authority of the MAC, Dibrugarh. On 28.01.2023, the informant met Rajesh Bhansal, the petitioner and Mr. V. Srinivasulu at the office of the MAC and was introduced to Sri K.R. Nagappan.

The informant was duped that K.R. Nagappan and Mr. V. Srinivasulu are liaising agents for procurement and facilitation of purchase orders of the Council.

5. Thereafter, on 30.01.2023, a meeting was scheduled with the concerned officer of the MAC and Mr. Partha Bhardwaj was introduced to the informant and a discussion was held for procurement of mass-order of motor pumps, blankets, mosquito nets, school bags, solar panel and other products by the MAC and Mr. Partha Bhardwaj assured him that mass procurement of such items can be made without floating tenders. The prime accused Mr. Partha Bhardwaj had a nameplate as OSD in his office room of the MAC to defraud the prospective suppliers.

6. Stating that Mr. Bhardwaj had an office at Guwahati also, the informant was invited to his office on 01.02.2023 for further course of action. Mr. Bhardwaj also informed him that the security deposit equivalent to 5% of the order amount was required to be paid in cash. The respondent No. 2, Sri K.R. Nagappan along with the other accused met Mr. Bhardwaj on 01.02.2023 in his office at Ajanta Path, Survey, Beltola, Guwahati and the informant/respondent No. 2 was asserted that Mr. Bhardwaj had the authority to procure goods amounting to Rs.2000 Crores annually from eligible suppliers without the necessity of floating tenders. The respondent No. 2/informant was also apprised that unutilized fund of Rs.500 Crores has to be utilized by the Council before the sanction elapses. Mr. Bhardwaj also assured the informant that he would process order in favour of the Sushila Gramodyog Sansthan but 5% of the order amount had to be paid in cash.

7. On 13.02.2023, M/S Sushila Gramodyog Sansthan received three work orders via courier for various supplies for a total amount of Rs. 93,68,00,000/-

(Rupees Ninety Three Crores Sixty Eight Lacs). The work orders specifically mentioned that all the payment would be realized within 45 (Forty Five) days after supply of the order. As the informant had to pay 5% of cash security deposit before the commencement of the supply of the order, on 12.03.2023, the informant paid Rs. 1,00,00,000/- (Rupees One Crore) to Mr. Rajesh Bansal, the petitioner and Mr. R.B. Thakur in cash at Highway Towers A-13/2, 3 & 4, Sector-62A, Noida towards the security deposit in presence of the Accountant of M/S Sushila Gramodyog Sansthan i.e. Mr. Deepesh Joshi. Thereafter, the complainant supplied goods to the MAC and the relevant documents, invoices, Eway Bills and billty etc. reflects goods amounting to Rs.3,10,28,000/- (Rupees Three Crore Ten Lacs Twenty Eight Thousand) were supplied from 14th March, 2023 up-to 31st March, 2023.

8. It is further alleged that the accused led by Mr. Partha Bhardwaj continued to raise demand for the remaining security deposits from the informant. The informant requested for time to arrange cash withdrawals from his account.

9. On 19.04.2023, Mr. Partha Bharadwaj, his wife Mrs. Sadipta, Sri K.R. Nagappan and the other accused visited the informant's house and he handed over cash of Rs.1,25,00,000/- (Rupees One Crore Twenty Five Lacs) to Mr. Partha Bhardwaj, his wife Ms. Sadipta in presence of Mr. Anand Kumar Srivastava, an employee of M/S Sushila Gramodyog Sansthan. However, Mr. Partha Bhardwaj pointed out that this amount was not the actual due amount as work orders of Rs.93,68,00,000/- (Rupees Ninety Three Crore Sixty Eight Lacs) was placed and 5% of the amount was much higher than the amount paid by the informant.

10. On their persistence, on 24.04.2023 cash amount of Rs.1,50,00,000/- (Rupees One Crore Fifty Lacs) was handed over to the Sri K.R. Nagappan and Mr. V. Srinivasulu during their meeting with the informant held at Nehru Place, New Delhi at the office of the National Federation of Farmers Procurement, Processing and retailing Cooperatives of India Limited, in presence of the driver of the informant, Sri Sanjay Kashyap. It is alleged that the informant supplied materials of Rs.3,10,28,000/- (Rupees Three Crores Ten Lacs and Twenty Eight Thousand) and he approached the petitioner and Mr. Partha Bhardwaj to initiate payment of the supplied materials from the month of May, 2023 as per the terms and conditions for payment within 45 (Forty Five) days and he was assured that the payment would be prioritized.

11. Following persistent telephonic calls, the informant received a payment of Rs.27,44,000/- (Rupees Twenty Seven Lacs Forty Four Thousand) from the MAC through bank transaction. Additionally on 23.08.2023, an amount of Rs.46,80,000/- (Forty Six Lacs Eighty Thousand) was also received from the MAC through bank transaction. A total amount of Rs.3.75 Crores in cash was received by the accused in the name of security deposit and another amount of Rs.2.36 Crores has to be paid to the informant. It is submitted that the informant has been cheated and has incurred loss to the tune of Rs.6.11 Crores by the petitioner in collusion with the other accused named in the FIR.

12. It is submitted on behalf of the petitioner that the role attributed to the petitioner was that he induced the informant into believing in the legitimacy of a Government project in Assam. A thorough examination of the FIR would reveal that the petitioner played no significant role as attributed against him and the complainant has acknowledged the petitioner's lack of involvement in any

forgery. The Memorandum of Understandings (MOUs for short) dated 02.02.2023 was signed by and between the MAC, Government of Assam and the informant's company i.e. M/S Sushila Gramodyog Sansthan for supply of articles for the benefit of the beneficiaries. It was Partha Bharadwaj who has committed the offence of forgery and the other offences alleged, posing as Government official and facilitating the execution of forged MOUs in the meetings held at Dibrugarh. The complainant and Mr. Partha Bharadwaj mutually determined all the terms and conditions relating to the supply, orders, rates, payments and other related terms etc.

13. Upon the complainant verifying the deal's authenticity with the MAC, the petitioner along with the other co-accused visited the alleged Government building at Dibrugarh where they met Partha Bharadwaj in an office room of the OSD for the first time. The presence of his name on the board as the OSD with multiple other government employees and authority cabins led the petitioner and the other accused to believe into the legitimacy of deals.

14. It further averred that it was the informant Mr. Tyagi, who negotiated the dealings with Mr. Partha Bharadwaj and insisted on cash payments, stating that he could pay only in cash. Additionally, there were some other personal dealings between Mr. Partha Bharadwaj and the informant, of which the petitioner was unaware of. When the petitioner learnt about these personal dealings between both the prime accused and the complainant, he chose not to get involved further and he has no personal interest in the dealings. It is further submitted that the allegation in the FIR relating to payment of Rs.1 Crore to the petitioner is entirely false and fabricated. No transaction occurred on 12.03.2023 as all such cash transactions were arranged between Mr. Tyagi and Mr. Partha

Bharadwaj. The petitioner learnt about the personal financial arrangements between Mr. Srinivasulu and possibly, Mr. Nagappan, involving a transfer of Rs.40 Lacs to Mr. Srinivasulu for the first time on the following day. The petitioner had no involvement in the aforementioned transactions. When questioned about any personal dealings with Mr. Partha Bharadwaj, the informant had emphatically denied of any such personal dealings.

15. Mr. K.R. Nagappan has brought up a case against Partha Bharadwaj registered as Dibrugarh Police Station Case No. 65/2024 under Sections 120B/409/419/468/471 of IPC marked as Annexure-6 of the petition.

16. Learned counsel for the informant and learned Additional Public Prosecutor have raised serious objection against the prayer for pre-arrest bail. It is submitted that this is an economic offence. Several beneficiaries have been deprived by the fraudulent act of the petitioner and the co-accused named in the FIR. It is submitted that the FIR registered as Dibrugarh Police Station Case No. 65/2024 has been lodged conjointly by K.R. Nagappan, Duggirala Pravakar and G. Surya Prakash. Under the cover of the FIR lodged by some other individuals, all the accused are trying to procure the privilege of anticipatory bail in a fraudulent manner.

17. It is submitted that specific role has been attributed to the petitioner in the FIR and now he cannot feign ignorance relating to any fraudulent deal executed by the accused named in the FIR. He is hand in glove with the prime accused.

18. I have scrutinized the Case Diary. Indeed there are incriminating materials in the Case Diary against the petitioner. The prayer for bail on the ground of

parity cannot be taken into account as the petitioner is at different footing with the other accused namely K.R. Nagappan and V. Srinivasulu. There are specific allegations in the FIR against the petitioner. It appears that investigation may be adversely affected if the petitioner is insulated by an order of anticipatory bail. I have also scrutinized the role attributed to the petitioner. The provision of Section 482 of BNSS cannot be exercised in an untrammeled manner. The petitioner's earlier bail prayer was rejected and there appears to be no substantial change of circumstances at this juncture. I have considered the facts and circumstances of this instant case.

19. Considering all aspects, at this juncture, I am not inclined to extend the privilege of anticipatory bail to the petitioner. Petition stands rejected at this stage.

20. In terms of the above observation, this Anticipatory Bail Application stands disposed of.

21. Send back the Case Diary.

JUDGE

Comparing Assistant