

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.14359 of 2015

Arising out of PS.Case No. -17 Year- 2014 Thana -C.B.I CASE District- PATNA

Nirmal Kanodia @ Nirmal Kumar Kanodia, S/o Late Subhkaran Lal Kanodia, resident of Naya Bazar, P.O. & P.S. Lakhisarai, District Lakhisarai.

.... Petitioner.

Versus

1. The Union of India through C.B.I.
2. South Bihar Power Distribution Company Ltd. through its Managing Director, Vidhut Bhawan, Bailey Road, Patna.

.... Opposite Parties.

Appearance :

For the Petitioner : Mr. Kanhaiya Pd. Singh, Sr. Advocate.
For the O.P. No. 1 : Mr. Bipin Kumar Sinha, SC, CBI.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

3 13-05-2015 Heard both sides.

The petitioner seeks bail in R.C. No. 17(A)/14-CBI/Pat, under Sections 420, 379/34 of the Indian Penal Code, Section 135 of the Electricity Act, 2003 read with Section 13(1)(d) of the Prevention of Corruption Act, 1988.

The Assistant Electrical Engineer, Lakhisarai, lodged Lakhisarai P.S. Case No. 38 of 2009 under Sections 420, 379/34 of the Indian Penal Code and 135 of the Electricity Act for tampering the electric meter of the factory, namely, M/S. Balajee Ingot India Pvt. Ltd.



After investigation, the Bihar Police submitted final form and the same was accepted. The Bihar State Electricity Board, Patna, preferred Cr. Misc. No. 34652 of 2011 and the order accepting the final form was set aside and vide order dated 22.08.2014 passed in the aforesaid Criminal Miscellaneous, the matter was entrusted to the Superintendent of Police, C.B.I., A.C.B., Patna. The C.B.I. took over the investigation and after completion of the investigation submitted charge sheet on 02.05.2015 against the petitioner. The petitioner was Director till 21.05.2008 and thereafter his resignation was accepted and he worked in the company as only share holder.

Sri Kanhaiya Prasad Singh, learned counsel for the petitioner submits that earlier it is alleged that meter was tampered and theft of electric energy was done causing loss of Rs. 3,50,00,000/- to the Bihar State Electricity Board but the company moved before this Court vide C.W.J.C. No. 1607 of 2009. This Court vide order dated 23.03.2009, set aside the punitive assessment of loss and directed the authority to pass order in accordance with law. The company was directed to pay a sum of Rs. 1,50,00,000/-. In pursuance thereof, the company deposited Rs. 1,50,00,000/-. Thereafter, the loss was assessed to Rs. 94,00,000/- and accordingly, the Department was directed to

adjust the excess amount deposited by the company in future bill.

It is submitted that either being the Director or the share holder of the company, the petitioner can not escape from his vicarious liability of tampering with the meter but the petitioner has already remained in jail for more than two months and so far as the investigation with regard to the petitioner is concerned, the same is complete and charge sheet is submitted.

Sri Bipin Kumar Sinha, learned counsel for the C.B.I., on the other hand, has submitted that the petitioner was the Director of the company and from perusal of the charge sheet at page-09, the Investigating Officer is very categorically found that Sri Nirmal Kanodia @ Nirmal Kumar Kanodia, the petitioner was looking after day-to-day affairs of the company and supervised all the affairs, of course, Sri Gopal Krishna Sinha, was functioning as the Manager of the company. It is further submitted that the offence is very serious nature. The investigation is still going on so far as it relates to other persons.

Having considered the facts aforesaid, it appears that it was found that the meter was tampered and electric energy was theft. The petitioner either being the Director of the company or share holder was found to be closely associated with day-to-day affairs of the company and the company was running under his

supervision but the loss of energy on account of theft was assessed to be Rs. 94,00,000/- and the company has already deposited Rs. 1,50,00,000/-. The petitioner has remained in jail for more than two months.

Considering the facts aforesaid, the petitioner deserves to be enlarged on bail and accordingly the same is allowed. The petitioner Nirmal Kanodia @ Nirmal Kumar Kanodia is directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, C.B.I.-II, Patna, in Special Case No. 08 of 20014, arising out of R.C. No. 17(A)/14-CBI, Pat.

The petitioner shall appear during the course of trial.

U.K./-

(Prabhat Kumar Jha, J)

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