

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.24956 of 2015

Arising Out of PS.Case No. -10 Year- 2013 Thana -PATNA COMPLAINT CASE District- PATNA

Satish Kumar S/o Akhilesh Prasad Yadav At + P.O. Jeevantpur, P.S. Gamhariya, District - Madhepura

.... Petitioner/s

Versus

1. The State of Bihar
2. M/s Jayaswal Neco Industries Ltd. Corporate head office - F - 8, MIDC, Industrial Area, Heena Road, Nagpur - 440016, through its authorised singnatory Mr. Vinod Tej Narayan Jha, Manager (Marketing) residing at Plot No. 67, Subham Nagar, near Zenda Sqare, Rajeev Nagar, Higana Road, Nagpur - 440023

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. N.K. Agarwal, Sr. Advocate,
: Mr Sharde Nand Mishra.
For the Opposite Party no. 2 : Mr. Rajesh Ranjan no. 1
For the State : Dr. M.K. Gautam (APP)

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

7 29-02-2016 Heard Mr. N.K. Agarwal, the counsel for the

petitioner, Mr. Rajesh Ranjan no. 1, the counsel for the opposite

party no. 2 and Dr. M.K. Gautam, APP for the State.

The petitioner apprehends his arrest in complaints

case no. 10(C)/2013, registered under Section 420 of the Indian

Penal Code and Section 138 of N.I. Act instituted by the

respondent no. 2 who is the supplier/manufacture of pipes and

sanitary fittings.

The prosecution case is that the petitioner and one

Chandrika Pd. Sah who deal with the Government contracts

placed orders and the complainant supplied the articles worth Rs. 55 lacs. The amount was not paid even after the supply was made. Notice was issued, but no reply was given. The petitioner has cheated the complainant.

Contention of the petitioner is that earlier to this co-accused Chandrika Pd. Sah had paid 38 lacs to the complainant. The remaining amount of Rs. 14,75000/- was also paid to the complainant. A sum of Rs. 5,00000/- and thereafter a sum of Rs. 1,00000/- was paid through cheques to the complainant for the remaining amount of Rs. 5 lacs, the cheque was issued which was made to appear as 55 lacs. It is a case of dispute relating to settlement of the account and therefore civil in nature. The petitioner deserves the privilege of anticipatory bail.

The counsel for the complainant conversely submitted that the payment of Rs. 38 lacs, indisputably was made by another co-accused namely Chandrika Pd. Sah and that too prior to the order placed in the present case for supply of pipes and sanitary fittings which started on and after August 2011. A similar contention was raised by co-accused namely Chandrika Pd. Sah, while seeking anticipatory bail before this Court but his prayer for anticipatory bail was rejected vide order dated 30.04.2015 passed in Criminal Miscellaneous No. 43826

of 2014.

Mr. Agarwal, in reply, submits that the Special Leave Petition has been filed by co-accused Chandrika Pd. Sah against refusal of bail by this court, which is pending consideration before the Hon’ble Apex Court.

Be that as it may, considering the facts and circumstances of the case, the allegation attributed to the petitioner and the fact that co-accused Chandrika Pd. Sah, has been refused anticipatory bail by this Court, I am not persuaded to extend the privilege of anticipatory bail. Prayer is accordingly rejected.

(Kishore Kumar Mandal, J)

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