

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.52845 of 2016

Arising Out of PS.Case No. -263 Year- 2014 Thana -SHRIKRISHNAPURI District- PATNA

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1. Dr. (Mrs.) Andal Arumugam, aged about 46 years, wife of Dr. S Arumugam, Managing Director, R.K.M. Powergen Pvt. Ltd.
 2. T.M. Singaravel, aged about 65 years, Son of T. Muthurangam, Director, M/s R.K. M. Powergen Pvt. Ltd.
 3. Mr. R. Saravanan, aged about 48 years S/o Mr. Radhakrishnan Chief General Manager, R.K.M. Powergen, Pvt. Ltd.,
 4. J. Mohan aged about 50 years Son of Mr. Jegatheesan General Manager, R.K.M. Powergen Pvt. Ltd. All having Office at 14, Dr. Giriappa Road, T. Nagar, P.S. Teyanampet, Chennai-60017

.... Petitioners

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Lalan Kumar

For the Opposite Party/s : Mr. Shantanu Kumar

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL ORDER

2 07-12-2016 Heard learned counsel for the petitioners and the learned A.P.P. for the State.

The petitioners apprehend their arrest in connection with Sri Krishnapuri P.S. Case No. 263 of 2014, registered under Section 406 and 420 of the Indian Penal Code.

The accusation, as contained in the First Information Report of informant Shailendra Pratap, Director, M/s Om Astha Construction Pvt. Ltd., is that he was carrying the contract work within and outside of Bihar and one of sites is at village Uchchipinda, P.S. Kharasiya, District-Janjgir-Champa, Chatisgarh.



Accused-petitioner No.1 being Managing Director, R.K.M. Powergen Pvt. Ltd. and accused-petitioner No.2 being D.G.M. (Civil) entered into sub-contract agreement at his office for construction work for the packages and got four work orders. After obtaining the work orders, he requested to petitioner No.1 for mobilization advance for Rs. 1,35,00,000/- then petitioner No.1 requested to his company to deposit advance bank guarantee of Rs. 1,35,00,000/- as a security then only the interest free mobilization advance would be released. Accordingly, his company deposited bank guarantee vide B.G. No. 19 of 2012 for Rs.35,00,000 issued on 19.03.2012 valid for the period 19.03.2012 to 16.03.2013 and B.G. No. 25 of 2012 for Rs. 1,00,00,000/- issued on 30.05.2012 valid for the period 30.05.2012 to 29.05.2013 issued by Canara Bank, Main Branch, Patna, Bihar. Thereafter, accused petitioner No.1 issued mobilization advance for Rs. 1,35,00,000/- to his company and as per terms of work order entire mobilization advance have been recovered from running account bills by the accused-petitioner No. 1. Thereafter, accused-petitioner No.1 had to refund the bank guarantee, but in spite of several requests, accused petitioner no.1 in place of refunding the bank guarantee, suddenly on 28.10.2013, accused No.3 V.V. Ram, authorized signatory of



Axon Construction Pvt. Ltd. invoked the aforesaid bank guarantee without giving any prior notice to him with mala fide intention and presented both guarantees in bank with request for encashment in favour of accused/petitioner No.1. Thereafter, on 01.11.2013 bank informed to him with request to deposit Rs. 1,35,00,000/- in the bank within 12 hours. Then he filed Title Suit No. 789 of 2013 in the Court of Sub-Judge-VI, Patna and after hearing the parties, on 04.01.2014 the Court directed to maintain status quo including the Canara Bank, Patna Main Branch till final hearing. The accused-petitioner No.1 violated the said order and tried to encash the bank guarantee of Rs. 1,35,00,000/-.

Learned counsel for the petitioners submits that it would appear from the F.I.R. that the dispute is of civil in nature. After filing of Title Suit No. 789 of 2013 in the court of Sub-Judge-VI Patna, the matter was referred to sole Arbitrator, Justice P. Shanmugam, Retired Judge of Madras High Court and he decided the said issue between the parties and awarded a sum of Rs. 3,14,89,868/- along with cost of Rs. 4,87,683/- in favour of the petitioner's company and against the informant's company of this case. Further submission is that the present case has been filed only to put pressure and harass the accused-petitioners.

Having regard to the facts and circumstances of the



case, let the above named petitioners, be released on bail, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, on furnishing bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, Patna in connection with Sri Krishnapuri P.S. Case No. 263 of 2014, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

(Rajendra Kumar Mishra, J)

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