

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.50253 of 2017

Arising Out of PS.Case No. -1 Year- 2013 Thana -C.B.I CASE District- PATNA

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1. Sanjay Agrawal Son of Late Vijay Kumar Agrawal, R/o Quarter No. 203
ABC, New Railway Colony, P.S.- Khagaul, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Central Bureau Investigation, ACB, Patna.

.... Opposite Party/s

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with

Criminal Miscellaneous No.52112 of 2017

Arising Out of PS.Case No. -1 Year- 2013 Thana -C.B.I CASE District- PATNA

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1. Mahesh Bharti Son of Bideshwar Bharti Resident of west Rajeev Nagar
road No.- 24, Digha, Patna, P.s.- Rajeev Nagar, District- Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. The Union of India through the C.B.I.

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.50253 of 2017)

For the Petitioner/s : Mr. B.P. Pandey, Sr. Advocate
For the CBI : Mr. Bipin Kumar Sinha, SC/CBI
For the State : Mr. Dr. Rabindra Kumar, APP

(In Cr.Misc. No.52112 of 2017)

For the Petitioner/s : Mr. Uday Prasad, Advocate
For the CBI : Mr. Bipin Kumar Sinha, SC/CBI
For the Opposite Party/s : Mr. Nawal Kishore Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

6 30-11-2017 Heard learned counsels for the petitioners and the State.

The petitioners apprehend arrest in R.C. No. 01(A)

2013 and R.C. No. 023013A0001/2013, Special Case No. 05 of

2013 instituted for the offence under Sections 120B, 420, 468 and



471 of the Indian Penal Code and under Section 13(2) r/w, 13(1) (d) of the P.C. Act, 1988.

It is alleged in the written report that pursuant to joint surprise check conducted on 09.12.2012, information has been received that the officials of E.C. Railway, Danapur had purchased water purifier during the period of 2009-10 for use of various branches of E.C.Railway in Danapur Division. Out of 43 nos. of Kent R.O. Water Purifier system were supplied by M/s. Aashika Enterprises, Patna at Rs. 16,750/- each.

It is further alleged that engineer of Kent R.O. Water Purifier, on inspection has certified that most of the systems were duplicate.

Accordingly, four persons namely Sri A.K. Sinha, CTI/G/Rajendra Nagar Railway Station, Sri K.Kumar, the then CTI, Patna Junction and Sri Rakesh Ranjan, the then Junior Engineer-II (TRS), EC Rly., Danapur and M/s Aashika were found involved in cheating and wrongful loss to the Railways to the tune of Rs. 7,20,250/-.

It is mentioned in the written report that materials were received by Sri A.K. Sinha, the then CTI/G/Rajendra Nagar Rly. Station, Sri K.Kumar, the then CTI, Patna Junction and Sri Rakesh Ranjan, the then Junior Engineer-II (TRS), EC Rly.,



Danapur and gave inspection certificate of these Kent R.O. Water Purifier systems installed at Rajendra Nagar Railway Station and Patna Junction and it was their duty to ensure the quality and quantity of the materials received by them.

Counsel for the petitioner in Cr. Misc. Case No. 52112 of 2017 has submitted that he is not named in the FIR. The name of this petitioner has come during investigation. He has neither supplied any Kent R.O. Water Purifier to EC, Railway, Danapur nor has received any money from them. The name of this petitioner has come during investigation that they use to assemble the Kent R.O. Water Purifier.

Counsel for the petitioner of Cr. Misc. Case No. 50253 of 2017 has submitted that he is proprietor of M/s Aashika Enterprises whose name is mentioned as accused no. 4 in the FIR. He has procured 43 Kent R.O. Water Purifier from different places including M/s Aashika Enterprises on different dates and supplied the same to Indian Railway at Rajendra Nagar Terminal. These R.O. systems were inspected by the Junior Engineer-II, who certified the Kent R.O. Water Purifier quality and approved its installation. Thereafter, systems were installed at different locations after certification of the Water Purifier. The job of the petitioner was limited to procure the Water Purifier from different



vendors and supply the same to the satisfaction of the railway officials.

Counsel for the petitioner further submitted that supply of 43 units of R.O. Water Purifier was done in 2009-10. The FIR was lodged after three years of installation in the year 2013. The water purifier has a warranty of only one year which has expired in the year 2011. The inspection was done much after expiry of this warranty period. The petitioner was in no way competent to test the systems for their genuineness and quality. The petitioner was mere supplier of Kent R.O. Water Purifier system and the maintenance of the said system was done by the railway officials. The petitioner is merely being made scapegoat of the railway authority for the negligence on their part.

After hearing submissions of counsels of both the petitioners, it appears that R.O. were supplied in the year 2009-2010 after due certification by the railway authorities, which is mentioned in the written report itself. The inspection was done in the year 2013, after three years of the supply. Those R.O. are said to be duplicate one, on the basis of the report said to have been submitted by an engineer of Kent Company who was called on 13.12.2012, who concluded that most of the systems installed, were duplicate. But in the written report, it is mentioned that three



officials of the railway as named above have received the material and given the inspection certificate of these R.O. systems installed at Rajendra Nagar Railway Station and Patna Junction. It was their duty to ensure the quality and quantity of the R.O. Water Purifier systems.

In such circumstances, prayer for anticipatory bail of petitioner in Cr. Misc. Case No. 50253 of 2017 and Cr. Misc. Case No. 52112 of 2017 is allowed and it is ordered that the petitioners, named above, in the event of their arrest or surrender in the court below within six weeks from the date of receipt/production of copy of this order, shall be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each in connection with R.C. No. 01(A) 2013 and R.C. No. 023013A0001/2013, Special Case No. 05 of 2013 to the satisfaction of learned Special Judge, CBI-III, Patna subject to condition as laid down u/S 438 (2) of the Cr. P.C. with further conditions (1) (bailors should be local having sufficient immovable property within the jurisdiction of the court concerned, (2) petitioners shall cooperate in the trial and shall be present on each and every dated fixed by the court and absence on two consecutive dates without proper and reasonable reason, will automatically cancel bail bonds of the petitioners and (3) if the



petitioners tampers with the evidence or the witnesses of the case,
in that case, prosecution will be at liberty to move for cancellation
of bail of the petitioners.

(Sanjay Priya, J)

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