

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20427 of 2019

Arising Out of PS. Case No.-43 Year-2019 Thana- PIRBAHOR District- Patna

Naushad Alam S/o Mr. Adalat Hussain Resident of House No. 506A/1, New Azimabad Colony, P.S.- Bahadurpur, District- Patna, at present Managing Director, M/s Azalfa Building Construction Private Limited

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar Singh

For the Opposite Party/s : Mrs.Dr. Indihar Kumari

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 03-04-2019 Heard learned counsels for the petitioner and the State.

The petitioner is apprehending arrest in a case registered for the offences punishable under Sections 188, 288, 427 and 420 of the IPC.

The prosecution case, as per the written report of Ranjan Kumar Singh, being the Misc. License Inspector-cum-Section Officer, Bankipore Circle, Patna Municipal Corporation, Patna submitted to the Station House Officer, Pirbahore Police Station, is to the effect that Vigilance Case No. 62B of 2018 is pending before the Commissioner in respect to the construction of Urban Plaza Apartment, Bari Road, Patna. It is alleged that due to lack of workmanship, lack of security and irregularities during excavation of basement, the boundary wall of Hathuwa market



got collapsed and portion set back got damaged, which suggest that the construction company lacks workmanship.

It is submitted by learned counsel for the petitioner that the petitioner is the Director of a registered construction company being, M/s Azalfa Building Construction Private Limited. The petitioner under a valid sanctioned map, was getting construction of the building in question near the Hathuwa market made. However, due to digging of the basement, unfortunately the boundary wall of Hathuwa Market collapsed in the night on 12.01.2019 and immediately the petitioner started filling up soil and sand in the dug area to prevent further damage. It is further submitted that if the damage has been caused to the adjacent structure due to construction being made by the construction company of the petitioner, then the remedy lies to the effected persons under the Bihar Municipal Act. The FIR has been lodged just to harass and humiliate the petitioner. The FIR does not suggest that any construction was being made and set back got damaged after order of stay dated 19.11.2018, passed by Municipal Commissioner in Vigilance Case No. 62B of 2018. However, the petitioner made request to the Municipal Authority, vide application dated 18.01.2019, as contained in Annexure-3, to allow to make pilling and to construct retaining



wall to ensure the security of adjacent structure, but no permission has been granted till date.

Learned APP submits that due to construction made by the petitioner, the boundary wall of Hathuwa market got demolished.

Considering the fact that the FIR does not suggest that any construction was going on after stay order being passed by the Municipal Commissioner, it is the case of the prosecution that the petitioner was making construction without any valid plan, coupled with the statement made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, let the above named petitioner be released on anticipatory bail in the event of arrest/surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of like amount each to the satisfaction of learned Chief Judicial Magistrate, Patna in connection with Pirbahore P.S. Case No. 43 of 2019, subject to the condition as laid down under Section 438(2) of the Cr. P.C.

(Dinesh Kumar Singh, J)

Amrendra/-

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