IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31306 of 2021

Arising Out of PS. Case No.-197 Year-2020 Thana- SIKANDRA District- Jamui

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Pancham Singh Son Of Jang Bahadur Singh R/O - West Morabadi Maidan, Anand Gram Lane No.-2, Near Birsa Munda Stadium, P.S.- Bariyatu, District-Ranchi (JHARKHAND).

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. S.D. Sanjay, Sr. Adv. Mr. Mohit Agarwal, Adv.
For the Informant	:	Mrs. Nivedita Nirvikar, Sr. Adv. Mr. Arya Achint, Adv.
For the State	:	Mr. Jai Narain Thakur, APP

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CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR

ORAL ORDER

4 24-11-2021 Heard Mr. S.D. Sanjay, learned senior counsel for the petitioner, Mrs. Nivedita Nirvikar, learned senior counsel for the informant and Mr. Jai Narain Thakur, learned A.P.P. for the State.

The present application has been filed on behalf of the petitioner for grant of anticipatory bail in connection with Sikandra P.S. Case No. 197 of 2020 registered under Sections 420, 406, 467, 468, 471 and 120-B read with 34 of the Indian Penal Code.

The FIR has been instituted on the written report filed by the informant Amit Kumar Singh, who is owner of the firm M/s Mangalmurti Constructions. As per allegation in the FIR, the informant's firm had entered into a petty contract with M/s Vijeta Projects and Infrastructures, West Morabadi Maidan, Ranchi for construction of Lachwar dam. However, after investing crores of rupees in the said work and completing work worth Rs.50 crores, the informant was removed from the said work and has engaged someone else to complete the incomplete work. The petitioner's company has cheated the informant and Rs. 11.20 Crores of his principal amount has also been withheld. On demand, the alleged company had given a cheque of Rs. 50 Lakh which got dishonored. In alternate, informant repeatedly ask the company to return money to him but on one pretext or the other and ultimately petitioner had black-listed the informant's company. Irrigation Department has also now terminated the agreement and blacklisted the alleged company. Now the Company is removing its machinery and material stealthily for escaping.

Learned senior counsel for the petitioner submits that the petitioner is innocent and has been falsely been implicated in this case. He has not committed any offence and implicated in this case due to business rivalry and to extort money from petitioner's company. Petitioner is a reputed businessman and is Chairman-cum-Director of the Company. No specific allegation has been levelled against the petitioner in the FIR and no malafide can be proved from the statement in the FIR. As a matter of fact, the informant was holding the power of attorney on behalf of the petitioner’s company and he was authorized on behalf of the company to look after the execution of the work under the contract and day-to-day affairs in good faith. He was also handed over a signed blank cheque book for the purpose of purchasing raw materials, payment to labourers and similar other ancillary activities. It is further stated that when it was found that the informant was misusing the signed cheques of the company and the power of attorney given to him was revoked. It is further stated that since the informant was himself power of attorney holder of the petitioner’s company, there was no occasion to have a separate agreement of sub-contract with him. The petitioner’s company engaged some other employees for the execution of the work after revoking the power of attorney in order to complete the project. It is further submitted that it is the informant, who has played fraud with the petitioner company and has filed FIR against the petitioner and others by playing fraud. He has transferred huge amount of money of the petitioner company in his own account. It is contended that by misusing the power of attorney, the informant illegally created market liability in the name of the petitioner company to the tune of Rs.3,82,89,077/- and instead of making payments to the suppliers of the raw materials of the construction work, diverted all the money in the bank accounts of other companies M/s MAV(JV) and M/s Mangalmurti Enterprises. It is contended that even if the allegations as levelled in the FIR are accepted on the face of it, no offence is made out as it is merely a civil dispute arising out of business dealings of the company and the allegations of fraud on account of cheque dishonour cannot hold as there have been continuous transfer of money from the bank account of the petitioner company to that of the informant and one MAV(JV) whose representative is the informant.

A counter affidavit has been filed on behalf of the informant stating therein that the petitioner after getting the contract from the Government of Bihar, engaged the informant as sub-contractor for execution of the aforesaid contract work and signed one sub-contract with the informant’s joint venture, namely, MAV(JV) which is partnership firm between M/s Mangal Murti Constructions and Arshika Enterprises for the contract valued at Rs.72 crores. The informant completed 70% of the work. She contended that the informant has already asked the petitioner to clear the rest amount as well as security deposit which is stuck with the department due to illegal termination of sub-contract. However, in order to cheat the informant and to usurp the money of the informant, the petitioner terminated the sub-contract without any reason and notice.

In reply, learned senior counsel for the petitioner submitted that the entire FIR is false and concocted and none of the offences are made out against the petitioner. The dispute is purely civil in nature, which arose due to business rivalry.

Having heard learned counsel for the parties and considered the rival submissions, I am inclined to grant anticipatory bail to the petitioner. The petitioner is directed to be released on bail, in the event of his surrender in the court below within four weeks, on furnishing bail bond of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate 1st Class, Jamui in connection with Sikandra P.S. Case No. 197 of 2020, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Sunil Kumar Panwar, J)

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