

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 627 OF 2022

Sanjaykumar Dalichand Shah	.. Applicant
Versus	
The State of Maharashtra & Anr	.. Respondents

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Mr. Bhooshan Walimbe for the applicant.
Mr. M.G. Patil, APP for the State.

CORAM: BHARATI DANGRE, J.
DATED : 8th MARCH, 2022

P.C:-

1 By the present application, the applicant seek transit anticipatory bail, so as to enable him to approach the Competent Court, seeking relief of protection from arrest.

The applicant is apprehending his arrest in C.R.No.63 of 2022 registered with Boranada police station, District Jodhpur, Rajasthan for offence punishable u/s.420, 406 and Section 120B of the IPC.

2 The applicant is a Senior General Manager of Sun Pharma Laboratories Ltd, a Private Limited Co. registered at Registrar of Companies, Mumbai. The Company had undertaken work of installing, commissioning the solar power plant in Bihar

and it appointed M/s.Alpha Infra Prop. Pvt. Ltd as project Management Company. For execution of the work, including construction of pile works for four power blocks, and for construction of four inverter rooms and fire wall at Bihar Solar Power Plant, a work order was issued in favour of Benival Construction Co. Pvt.Ltd. (for short 'BCCL'). The work order was issued and the agreed time for completion of work was 44 days from the starting day to its completion. It was stipulated that if the contractor i.e. Benival Construction Co. Ltd, failed to abide by the time limit, then the contractor shall be liable to pay liquidated damages. Since the work was not completed, another contractor was appointed and the remaining work was completed by BCCL much after the agreed date, but still the amount was paid as per the agreement.

3 Certain disputes arose between the parties on account the defects developed within an year of construction and a reconciliation statement was sought from BCCL but it was avoided.

BCCL filed a police complaint in view of Section 420, 406 and 120-B of the IPC and in this complaint, the present applicant is arraigned as an accused and he is apprehending arrest in the said C.R.

4 The submission of the learned counsel for the applicant is to the effect that the agreement between the parties contain an arbitration clause but for the purpose of harassment, the FIR is filed. Moreover, since the entire work was carried out in Bihar, despite the FIR came to be filed in Rajasthan. The applicant claim protection from his arrest, since he received an intimation about filing of the FIR and he received an intimation from the Officer of the concerned police station, directing him to attend Boranada police station. In this background, he has preferred the application.

5 On perusal of the FIR, it can be seen that it is filed by M/s.Benival Construction Co, and i had invoked offence punishable under Section 406, 420 and 120-B of the IPC.

6 The FIR, being registered on 1st March 2022, and the applicant is a resident of Mumbai, in order to enable him to access to the remedies available to him by approaching the appropriate Court, and particularly considering his age, in my considered opinion, he is entitled for protection from arrest by way of transit Anticipatory Bail for a period of one week from today.

 Within the said period, he shall take appropriate steps as permissible by law. Hence, the following order :

ORDER

- (a) In the event of his arrest, the Applicant – Sanjaykumar Dalichand Shah in connection with C.R.No.63/2022 registered with Boranada Police Station shall be released on transit Anticipatory bail on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (b) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.
- (c) The transit Anticipatory Bail shall remain in force for a period of one week from today.

SMT. BHARATI DANGRE, J