

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16797 of 2023

Arising Out of PS. Case No.-10 Year-2022 Thana- C.B.I CASE District- Patna

Shri. Subechandra Rajbhar @ S. Rajbhar, Son of Ramraj Rajbhar R/o Pithapur, P.S. Ahiraula, District - Azamgrah (U.P.) Presently residing at 202, Road No.- 4, Nehru Nagar, P.O. and P.S. Patliputra, Ward No.- 22, District - Patna.

... .. Petitioner/s

Versus

The State of Bihar through CBI Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Tanweer Kamal, Advocate

For the C.B.I. : Mr. Avinash Kumar Singh, Advocate
Mr. Ambar Narayan, Advocate
Mrs. Barkha, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

11 09-11-2023 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, if any, within a period of three weeks from today.

2. Heard learned counsel for the petitioner and learned counsel for the C.B.I..

3. The petitioner is apprehending his arrest in connection with F.I.R. No. RC0232022A0010 of 2022 dated 23.09.2022 registered for the offence punishable under Sections 7 and 8 of the Prevention of Corruption Act, 1988 and 120B of the Indian Penal Code.



4. As per the prosecution case, the informant has alleged that all the accused Officials of NHAI in connivance with the Officials of M/s. Ashoka Buildcon Limited (hereinafter referred as “M/s ABL Ltd.”) with respect to the under construction of the highway stretch of NH 319 are indulged in clearing inflated bills, manipulation of measurement books and used cheap quality construction materials causing wrongful loss to the Government exchequer. It is further alleged that on the instruction of S. Rajbhar (petitioner), General Manager, M/s ABL Ltd, Rs. 10,000,00/- (Rupees Ten Lakhs) was handed over to the co-accused Sadre Alam, Chief General Manager & Regional Officer, NHAI, Regional Office by the co-accused Jitendra Kumar, who is an employee of M/s ABL Ltd. as bribe money for passing the bills. On 22.08.2022 Mukul Kumar informed the petitioner that bribe money was also due to be delivered to Prabhanshu Shekar and asked him where to deliver the bribe money. Prabhanshu Shekhar told the petitioner to deliver the said money at his house. Prabhanshu Shekhar also contacted his wife and instructed her to receive the bribe money which would be delivered at



his house. Accordingly, the bribe money was delivered by the co-accused Jitendra Kumar to the wife of Prabhanshu Shekhar at his house in Patna. It is further alleged that on 22.09.2022, Mukul Kumar requested the petitioner to take time from Sadre Alam for effective delivery of the bribe money meant for the month of September 2022. Thereafter, the petitioner informed Mukul Kumar that Sadre Alam agreed to collect the bribe money on 23.09.2022 at 8:00 A.M. in the morning at his house in Patna.

5. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. It is further submitted that the charge-sheet filed by the CBI is scanty and there is no connecting evidence to point out the complicity of the petitioner in the alleged offence. It is further submitted that the charge-sheet mainly comprises of the transcripts of conversations between certain accused persons along with list of witnesses, list of documents and evidences. The charge-sheet that was served to the petitioner, does not contain statement of witnesses recorded under Section 161 of Cr.P.C. It is further submitted that the CBI has received certain reliable information and



accordingly, the calls of the petitioner and other co-accused were recorded in the form of hard drive, audio and video recordings but these electronic evidences have not been placed on record with the charge-sheet. Learned counsel further submitted that for want of electronic device and Certificate u/s 65B of the Indian Evidence Act, no credence can be attached to the investigation which has been conducted by the CBI. It is further submitted that though the collected voice sample was sent to forensic examination, but no report was placed on record with the charge-sheet. It is further submitted that the petitioner has been falsely implicated in the alleged offence on the basis of unknown source of information, but the F.I.R. as well as the charge-sheet is silent with regard to the unknown source and hence the entire case of prosecution appears to be doubtful. It is further submitted that the prosecuting agency did not place on record as to what favour has been sought by the petitioner and there is nothing on record to point out that the inflated bills were raised by manipulating the measurement books for which the accused has been bribed by the petitioner. The petitioner has no criminal antecedent



as stated in para 3 of the bail petition. It is further submitted that the petitioner did not give bribe to the co-accused persons and no money was recovered from the possession of the petitioner.

6. *Per contra*, learned counsel for the C.B.I. has submitted that the recovery of the excel sheets prepared by the co-accused Amit Kumar, CA of M/s ABL Ltd., in ordinary course of business duly signed by him and the co-accused Kumar Mukul mentioning the bills SPS no. (SPS is a running bill submitted by contractor on a monthly basis) against the accused officials of NHAI clearly establishes the demand and acceptance of bribe by the co-accused Sadre Alam on monthly basis for passing the running bills of M/s ABL Ltd. It is further submitted that it has transpired from the telephonic conversation of accused Prabhanshu Shekhar that he demanded the payment of bribe from the petitioner and the petitioner sent the co-accused Jitendra Kumar (working as driver of M/s ABL Ltd.) to his residence for the delivery of the bribe amount. Learned counsel has further submitted that the records maintained by the officials of M/s ABL Ltd. related to payment of bribe to the accused persons



Sadre Alam and Prabhanshu Shekhar during the period of August, 2021 to September, 2022 revealed that a total of Rs. 68.58 lakhs was paid to Prabhanshu Shekhar on different dates. These excel sheets were prepared by the co-accused officials on the direction of petitioner. Learned counsel has further submitted that the facts related to payment of bribe by the petitioner and other co-accused persons of M/s ABL Ltd. to the officials of NHAI revealed from the recorded conversation through monitoring of the mobile numbers of the petitioner and other co-accused persons. The mobile numbers of these persons were monitored and recorded during the period 19.04.2022 to 23.09.2022. There are 34 recorded conversations of the accused persons relating to the demand and payment of the bribe money by the petitioner through the co-accused persons. It is further submitted that there is compliance of Section 65B of the Indian Evidence Act. It is further submitted that Bal Krishan @ Bala, an employee of M/s ABL Ltd. at Patna office has also confirmed in his statement that the co-accused Amit Kumar used to take packets containing huge cash amount on a regular basis for making payments/delivery to the



accused public servants of NHAI. It is further submitted that Kuldeep, Engineer of M/s ABL Ltd. and others have identified the voice of accused persons Amit Kumar, Kumar Mukul, the petitioner and other employees of M/s ABL Ltd. in the recorded conversations related to the payment of bribe. It is further submitted that M/s RITES Ltd. engaged for assessment of the execution work by M/s ABL Ltd. after physical verification of the construction work, submitted in its report that the several works of M/s ABL Ltd. either not executed as per agreement or executed partially and the Joint General Manager of M/s RITES Ltd. vide letter dated 26.06.2023 has confirmed that excess payment of Rs. 25.11 Crores approx. were made to the contractor M/s ABL Ltd. inspite of non-completion or deviation in the execution of work from the Contractual Agreement which caused wrongful loss to the Government. It is further submitted that CSIR-CRRI (Central Road Research Institute), New Delhi has pointed out that the quality of the executed work was compromised to some extent and did not match the specification of the agreement. Lastly, it is submitted that the petitioner is the mastermind in the crime alleged.



7. Considering the aforesaid facts and circumstances of the case as well as the gravity of offence, I am of the view that no case for grant of anticipatory bail is made out. The petition is rejected and the petitioner is directed to surrender to the Court below within ten weeks from the date of this order and the Court below will consider the prayer of bail of the petitioner without being prejudiced by this order.

8. Accordingly, the prayer of anticipatory bail of the petitioner is rejected.

(Chandra Prakash Singh, J)

Nilmani/-

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