(2008) 10 JH CK 0004

Jharkhand High Court

Case No: None

Dinesh Kumar Sinha — APPELLANT

Vs

State of Jharkhand and Others — RESPONDENT

Date of Decision: Oct. 15, 2008

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 313
- Penal Code, 1860 (IPC) - Section 120B, 13, 409, 420, 465
- Prevention of Corruption Act, 1988 - Section 13

Citation: (2009) 1 JCR 136

Hon'ble Judges: Rakesh Ranjan Prasad, J

Bench: Single Bench

Judgement

@JUDGMENTTAG-ORDER

R.R. Prasad, J.
Heard learned Counsel appearing for the appellant and learned Counsel appearing for the CBI on the matter of bail.

2. Learned Counsel appearing for the appellant submitted that the appellant having been convicted for the offences u/s 120(B) read with Sections 409, 420, 467, 468, 471/465 and 477-A of the Indian Penal Code as also u/s 13(2) read with Section 13(1)(c)(d) of the Prevention of Corruption Act was awarded maximum sentence for four years for one of the offences on the allegation that the appellant being one of the partners of M/s. Ceplac Pharmaceutical, Ranchi took payment without supplying the medicines to the Animal Husbandry Department and thereby the appellant along with his brother Satendra Kumar, the other partner of the firm in connivance with officials of Animal Husbandry Department and others put the State Exchequer to loss to great extent but the fact is that the appellant had nothing to do with the day-to-day affairs of the business of M/s. Ceplac Pharmaceutical, rather it was Satendra Kumar, brother of the appellant, who was looking after the entire affairs of

the said Pharmaceutical Company and this fact was stated by the appellant to the Investigating Officer (PW 151) even at the time of Investigation and same fact was reiterated by the appellant in his statement made u/s 313 of the Code of Criminal Procedure. Furthermore the said fact gets substantiated from the evidence of PW 53, Chief Executive Officer, PCB Pvt. Ltd. (Consultancy firm) and also from the evidence of PW 26, Branch Manager, Indian Bank, who have testified that it was Satendra Kumar, who mostly did the banking transaction. On the other hand, none of the prosecution witness has come forward to say about the involvement of the appellant with the business of the said Pharmaceutical firm and as such, the appellant has wrongly been convicted and under these circumstances, the appellant deserves to be admitted on bail particularly when the appellant has already been underwent the period of sentence for more than 17 months.

3. As against this, learned Counsel appearing for the CBI submitted that this is one of the Fodder Scam cases whereby suppliers in connivance with Animal Husbandry Department Officials and also Treasury Officials as well as other persons involved in the case did withdraw huge amount on the basis of fake supply bills as well as fake allotment letters and thereby accused persons put the State Exchequer to a great loss and that so far this appellant is concerned, he is one of the partners of M/s. Ceplac Pharmaceutical, who actively associated himself with the business of the said firm which would be evident from the fact that the appellant along with his other partner under the joint signatured had made transaction with the account of the said firm through cheques (Exts. 19, 19/1. 19/2. 19/3, 19/6, 19/7, 19/8, 19/9 and 19/10) and the signatures of the appellant on the said documents on examination by the Hand Writing Expert were found to be of the appellant.

4. Moreover, the amount 1 received on account of alleged supply of the medicine to the Department was deposited with the pay-in-slips (Exts. 14/22 and 14/23) under the signature of this appellant which go to show that the appellant was very much concerned with day-to-day affairs of the business of the said firm and, therefore, the trial Court has rightly convicted and sentenced the appellant.

5. Regard being had to the facts and -circumstances of the case, I am not inclined to grant bail to the appellant. Hence, the prayer for bail of the appellant is rejected. However, the appellant would be at liberty to move for bail after serving half of the sentence of the maximum sentence imposed by the trial Court, if the appeal is not taken up for hearing before that.