

(2011) 08 JH CK 0060
Jharkhand High Court
Case No: A.B.A. No. 1702 of 2011

Sanjay Rampal

APPELLANT

Vs

The Central Bureau of
Investigation

RESPONDENT

Date of Decision: Aug. 18, 2011

Acts Referred:

- Penal Code, 1860 (IPC) - Section 120B, 420, 467, 468, 471
- Prevention of Corruption Act, 1988 - Section 13(1), 13(2)

Hon'ble Judges: Jaya Roy, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Jaya Roy, J.

Heard the learned Counsel for the Petitioner and the learned Counsel for the C.B.I.

2. The learned Counsel for the Petitioner submits that the Petitioner has apprehension for his arrest in connection with R.C. Case No. 12(A)/09-R registered under Sections 120B, 420, 467, 468 and 471 I.P.C. and u/s 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988 pending in the court of Sri N.N.Singh, Special Judge, C.B.I., Ranchi

3. The prosecution case in brief is that Shri Shyam Sunder Singh, the then Ex. Engineer, Road Division, Road Construction Department, Hazaribagh during the period from 2006-08 entered into a criminal conspiracy with M/s Sunny Construction & Company, Jhumritilaiya, Koderma and unknown others in pursuance thereof, M/s Sunny Construction & Company submitted false bogus invoices showing procurement of Bitumen, for the execution of the contractual work awarded in its favour, which caused wrongful gain to the contractor and corresponding wrongful loss to the Govt. of Jharkhand.

4. The counsel for the Petitioner has contended that the Petitioner is innocent and has been falsely implicated in this case. It is also submitted that the Petitioner is one of the three partners of the firm namely, Major Sunny Construction and Company (a partnership firm) is working for purpose of civil contract work and transport work under Government and semi-Government. One of the co-accused Shri Purushottam Lal Saroj is monthly remunerated working/active partner of the firm apart from the profit sharing. The working partner of the firm as per clause-II of the Partnership deed Shri Purushottam Lal Saroj will be responsible for any criminal act committed on behalf of the firm. Therefore, if any criminal act has been committed by the partnership firm namely M/s Sunny Construction & Company, only Shri Purushottam Lal Saroj is responsible not the Petitioner or other partners.

5. Mr. Khan, the learned Counsel of the C.B.I. submits that while hearing a Writ Petition being W.P.(PIL) No. 803 of 2009, Hon"ble Jharkhand High Court at Ranchi was pleased to direct the Central Bureau of Investigation to investigate the allegations of large scale irregularities, bungling and embezzlement in the matter of procurement of bitumen used in construction/repair of roads. On receipt of such directions, a Preliminary enquiry vide No. PE 03(A) 2009 was registered at Central Bureau of Investigation, Anti Corruption Branch, Ranchi. During the course of enquiry of the above referred PE 03(A) 2009, it was found that M/s Sunny Construction & Company Jhumri Tilaiya, Koderma had submitted fake bitumen invoices while executing the work of widening and strengthening of Jihu-Itkhor Road in km 0 to 9.8 for the year 2005-06 awarded to him under Road Construction Department, Road Division Hazaribagh and accordingly a separate criminal case was registered vide RC 12(A)/2009-R and investigation taken up.

6. The Investigation disclosed that M/s Sunny Construction and Co, Jhumri Tilaiya, Koderma, was awarded with a contract for execution of the work for widening and strengthening of Jihu- Itkhor Road in Km 0 to 9.8 for the year 2005-06 at a contractual value of Rupees Two crores sixty lakhs approximately and an agreement vide No. 15F2/05-06 on 23.03.2006 to this effect was executed between the partner of M/s Sunny Construction & Company and Executive Engineer, RCD, Road Division, Hazaribagh. Subsequent to the execution of the agreement, work order was issued by the Executive Engineer, RC, Road Division Hazaribnagh in favour of M/s Sunny Construction & Company, Jhumritilaiya, Koderma. Further Investigation disclosed that M/s Sunny Construction & Company submitted 43 invoices and amongst them 17 bitumen invoices amounting toRs. 60,30,625/- were fake. Thus, the aforesaid company in order to cheat the department by making use of less quantity of bitumen, prepared forged document and usedthem as genuine.

7. After hearing both the parties and considering the materials on the record, as admittedly the Petitioner is one of the partners of the aforesaid firm, I am not inclined to grant anticipatory bail to the Petitioner.

Accordingly, the prayer for anticipatory bail of the Petitioner is rejected.