

(2012) 05 JH CK 0040

Jharkhand High Court

Case No: A.B.A. No. 34 of 2012

Abhijit Gaurav @ Rohit

APPELLANT

Vs

The State of Jharkhand
and Md. Akil Ahamad
@ Tinku

RESPONDENT

Date of Decision: May 17, 2012

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 156(3)
- Penal Code, 1860 (IPC) - Section 120B, 364A, 379, 403, 406

Hon'ble Judges: Jaya Roy, J

Bench: Single Bench

Advocate: Sidharth Roy, for the Appellant; Kaisar Alam, Advocate For the Opp. Party No. 2, for the Respondent

Final Decision: Dismissed

Judgement

Hon"ble Mrs. Justice Jaya Roy

1. Heard the learned counsel for the petitioner, the learned counsel for the State and the learned counsel for the opposite party no.2. The petitioners are accused in a case registered under Sections 379 / 406 / 417 / 420 / 403 / 468 of the Indian Penal Code and later on section 419 and 120B of the I.P.C. are added and they are apprehending their arrest in connection with Gumla P.S. Case No. 160 of 2009, G.R. Case No. 513 of 2009, now pending in the court of Chief Judicial Magistrate, Gumla.

2. Prosecution case in brief is that on 04.01.09 accused petitioner Abhijit Gaurav met with the complaint Akil Ahamad introducing himself as R.F. Engineer of Tata Mobile Communication of District Gumla and Simdega and told that he installed the towers of Tata Indicom Co. in the Urban and Rural Areas. He told that upon whose land the tower is installed instead of reasonable rent one member of the family would be given service in

the Company but person willing should have to pay a sum of Rs.50,000/- in advance. He further told that he has to appoint two persons as Survey Employees whose monthly salary would be Rs.10,000/- each but for that too Rs.30,000/-each would have to pay in advance. The complainant has stated that thereafter he collected Rs.1,50,000/- from the persons who are willing to get tower installed and paid to the Engineer (the petitioner) on 22.01.09 in presence of the witnesses and he promised to install the tower in the first week of June 2009. It is further stated that on 18th February 2009 accused Amar Kumar Singh demanded a vehicle to make Survey at Simdega. Then the complainant handed over his relatives Murati Zen Car to the accused. When he did not return Gumla at evening hour, he contacted the accused who promised them to return the vehicle within three days. When he did not return up to a week, on inquiry the accused told that the vehicle had met with an accident in Bihar and he would return the same later on, but-still the vehicle has not been returned. The Complainant has stated that in may 2009 he came to know that Abhijit Gaurav (the petitioner) was a forged engineer and the other accused Anup Kumar is father of Abhijit Gaurav. The complainant has further stated that on 08.06.09 the accused persons reached to him and demanded more money then the complainant along with five witnesses surrounded him and telling that he was a forged person and demanded their amount. At that he confessed and made agreement on affidavit to a NOTARY to return the amount by 13.06.09. The informant has further stated that the other accused Anup Kumar (sic) has filed a criminal case on 7.6.09 at Patna for kidnapping his son (the present petitioner) on 6.6.09, against unknown i.e. Jakkanpur P.S. Case No. 107/09 u/s 364 A of the I.P.C. merely to save their skin.

3. The learned counsel for the petitioner has submitted that the petitioner is falsely implicated in this case by the complainant only to save them from the aforesaid case which was filed by the father of the petitioner on 7.6.09 at Patna (Jakkanpur). It is further submitted by the counsel of the petitioner after the aforesaid case instituted by the father of the petitioner, Jakkanpur Police rushed to Gumla and recovered the petitioner from the house of Md. Khalil who is father of the complainant and one Ziaul Haque was arrested and he has confessed that he along with the present complainant and others, kidnapped the present petitioner and demanded a sum of Rs. 8 lakhs from the father of the petitioner. It is further further submitted that the said Ziaul Haque also accepted in his confessional statements that they have taken signature of the petitioner in the blank paper and also taken a sum of Rs. 90,000/- from the petitioner. Therefore, the present case is a counter blast of the case filed by the father of the petitioner. It is also submitted that the complainant and other accused of the aforesaid case are insisting the petitioner to withdraw the aforesaid case otherwise they will teach the petitioner and his family members a good lesson.

4. The learned counsel for the complainant has submitted that the complaint case filed by the complainant, the court has sent the said complaint to the Gumla Police Station for instituting the case u/s 156 (3) of the Cr.P.C and investigate the matter. Accordingly, F.I.R. has been registered and the police investigated the matter. It is further contended

that there is specific allegation against the petitioner that he posing himself as an engineer of Tata Indicom Company and he with the help of his father and other co-accused, had taken a huge amount from the informant/complainant and witnesses. It has come in the investigation which is mentioned in the case diary that the witnesses have supported the prosecution case and in para 17 of the case diary, the Notary Public has also supported the prosecution case. It is also submitted that the anticipatory bail of the other co-accused who is father of the present petitioner namely Anup Kumar has been rejected by another Bench of this Court in A.B.A. No. 2352 of 2009 vide order dated 14.10.2009. Considering fact and circumstances of the case and materials which have come in the investigation clearly shows that the petitioner and other co-accused cheated the informant and the witnesses a huge amount by impersonating himself as an Engineer of Tata Indicom and considering the seriousness of the offence, I am not Inclined to grant anticipatory bail to the petitioner. Accordingly the prayer for anticipatory bail of the petitioner is, hereby, rejected.