

(2022) 03 DEL CK 0115
In the Delhi High Court
Case No : Bail Application No. 3710 Of 2021

Ankit Narang

APPELLANT

Vs

State, Govt. Of Nct Of Delhi

RESPONDENT

Date of Decision : 10-03-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438
Prevention Of Corruption Act, 1988 — Section 7
Indian Penal Code, 1860 — Section 120B, 420

Citation : (2022) 03 DEL CK 0115

Hon'ble Judges : Rajnish Bhatnagar, J

Bench : Single Bench

Advocate : Geeta Luthra, Shashi Shanker, Anirban Chanda, Rajni Gupta

Final Decision : Allowed

Judgement

Rajnish Bhatnagar, J

1. The present bail application has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case FIR No. 04/2019 under Section 7 of P.C. Act and U/s 420/120 B IPC registered at P.S. ACB, GNCTD.
2. Briefly stated, the facts of the case are that a complaint dated 04.04.2019 of one Sunil Kumar Singh, Superintending Engineer (Vigilance), Delhi Jal Board, Govt. of NCT of Delhi, Vigilance Department, Varunalaya, Phase-II, Karol Bagh, Delhi was received in the office of ACB, Delhi in which it has been alleged that Sh. Attar Singh Kaushal, Executive Engineer, (E&M), Sh. Pramod Kaushik, Asstt. Engineer (E&M), Sh. Parvesh Kumar, Junior Engineer (E&M) (on contract) and others while working in EE (SWD)-IX Division of Delhi Jal Board, GNCT of Delhi have fraudulently processed the claim of payment of 06 (six) work orders issued separately to contractors (1) M/s Narang Machinery Store, (2) M/s Nova Engineers, (3) M/s Techno Crat & (4) M/s Paras Sales. During site inspection and scrutiny of files related to tendered works at Shalimar Bagh SPS, gross irregularities like fraudulent release of payment in full/part made without

execution of work or execution of work in violation of contract, by DJB Staff in collusion and in conspiracy with above mentioned contractors have been found by the Vigilance Department of DJB. Hence, above mentioned case has been registered.

3. As per the Status Report, during the course of investigation, the related alleged site at Bharat Nagar SPS was inspected and in W.O. No.73, dt.04.01.18, regarding repair/replacement of air valve at header lines in chamber inside Bharat Nagar & Shalimar Bagh, SPS executed by M/s Narang Construction, it is found that the air valve and sluice valve (01 set) were found installed on the header line of the SPS in the chamber just outside the pump house. Old air valve (01 No) was found lying in the transformer room of the SPS, while old sluice valve (01 no.) was not found. During inspection conducted on 05.10.2018 by the vigilance team, alleged officials of DJB could not able to show the old/replaced sluice valve (01 no.) to the Vigilance team. However, full payment of Rs.1,68,966/- has been released to the contractor.

4. I have heard the Ld. Sr. counsel for the petitioner, Ld. APP for the State, perused the Status Report and have also gone through the records of this case.

5. It is submitted by the Ld. Sr. counsel for the petitioner that the petitioner has been falsely implicated and the work done by the applicant/petitioner was duly inspected by the concerned official from time to time and the same was duly entered in the measurement book as per the rule and after the successful completion of the work the payment of Rs. 1,91,456/- was made by the Delhi Jal Board. It is further submitted by the Ld. Sr. counsel for the petitioner that the petitioner has joined the investigation and has provided all the relevant information to the IO and the custodial interrogation of the petitioner is not required.

6. It is further submitted by the Ld. Sr. counsel for the petitioner that the co-accused has already been released on anticipatory bail. She further submitted that the IO has no reason for custodial interrogation and the petitioner, therefore, in terms of the directions of the Hon'ble Supreme Court in the case of Arnesh Kumar Vs. State of Bihar is not liable to be sent into custody. She further submitted that the job of the applicant/petitioner was only to install Air Valve and Sluice Valve and since they were found installed, there was no deficiency on the part of the petitioner, so it cannot be said that any criminal offence has been committed by the petitioner.

7. It is further submitted by the Ld. Sr. counsel for the petitioner that the safety of the old sluice valve was not the responsibility of the petitioner and after the completion of the job in respect of replacement of valves, the old valves were taken into custody by the concerned officer of the Delhi Jal Board. She further submitted that the petitioner has roots in the society and there are no chances of his running away or tampering with the evidence.

8. Ld. Sr. counsel for the petitioner has relied upon CBI Vs. A.K. Madan 2012 SCC

OnLine Del.5023 and Naveen Dagar Vs. State, NCT of Delhi 2015 SCC OnLine Del.13734 to contend that when a co-accused has been granted bail, the accused must be granted bail on the grounds of parity. Ld. Sr. counsel for the petitioner has also relied upon Navendu Babbar Vs. State, NCT of Delhi, Bail Appl. 913/2020 of this Court to contend that when the accused has already joined the investigation, then investigating officer cannot be heard to say that the applicant has not co-operated and that till the time the applicant hands over to him every shred of evidence, the applicant should be kept in prison. Ld. Sr. counsel for the petitioner has also relied upon Raj Kumar Vs. State of Punjab and Anr. CRM-M-12170-2021, The High Court of Punjab and Haryana to contend that merely stating by the IO that the accused is not co-operating is not enough and the IO has to explain the manner in which the petitioner has failed to co-operate with them. Ld. Sr. counsel for the petitioner has further relied upon Siddharam Satlingappa Mhetre Vs. State of Maharashtra (2011) 1 SCC 694, Arnesh Kumar Vs. State of Bihar, AIR 2014 SC 2756 and Kantibhai Devsibhai Patel Vs. State of Gujrat, 2015 SCC Online Guj 163.

9. On the other hand, it is submitted by the Ld. APP for the State that though the petitioner has joined the investigation but he has not co-operated in the investigation. She further submitted that during the investigation old material register of Shalimar Bagh SPS was seized and on examination of old material register it was found that there was no entry regarding the alleged old replaced sluice valve in the register. It is further submitted by the Ld. APP for the State that the conspiracy with the official of Delhi Jal Board regarding release of the full payment against the partial work is to be unearth and the petitioner is also involved in the similar type of offence in case FIR No. 05/2019.

10. In the instant case, as per the status report filed by the respondent, the petitioner has joined the investigation numerous occasions. No doubt, the contention of the IO is that the petitioner has not co-operated in the investigation which appears to be a general statement. There are no allegations that the petitioner has tried to tamper with the evidence or is a flight risk. All the evidence is documentary in nature and even as per the prosecution the material register has also been recovered. Co-accused has already been granted bail. Therefore, in these circumstances the custodial interrogation of the petitioner is not required as nothing is to be recovered from him.

11. In view of the discussions mentioned hereinabove, the bail application is allowed and it is ordered that in the event of arrest, the petitioner be released on bail on his furnishing a personal bond in the sum of Rs. 50,000/- with one surety of the like amount subject to the satisfaction of the IO/SHO concerned. However, the applicant/petitioner is directed to join the investigation as and when called by the IO of the case and he shall not leave the country without taking prior permission from the concerned Court. The bail application is disposed of accordingly.

12. Nothing stated hereinabove shall tantamount to the expression of any

opinion on the merits of this case.