
(2016) 08 JH CK 0158
In the Jharkhand High Court
Case No : A.B. A. No. 1846 of 2016

Bandhu Tigga

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 19-08-2016

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 438
Penal Code, 1860 (IPC) — Section 120(B), Section 420
Prevention of Corruption Act, 1988 — Section 13(1)(d), Section 13(2)

Citation : (2017) 1 AIRJharR 575

Hon'ble Judges : Mr. Anant Bijay Singh, J.

Bench : Single Bench

Advocate : Mr. Kumar Sundaram, Advocate, for the Petitioner; Mr. K.P. Deo, Advocate, for the C.B.I

Final Decision : Disposed Off

Judgement

Mr. Anant Bijay Singh, J.— Heard learned counsel for the parties.

2. The petitioner apprehending his arrest in connection with the case registered under Sections 120(B) r/w 420 IPC and Sections 13(2) r/w 13(1) (d) of Prevention of Corruption Act, 1988 has prayed for grant of anticipatory bail.

3. The F.I.R of the instant case was registered by the C.B.I on the basis of source information alleging, inter alia, that the officers of HEC, Ranchi viz. Shri A.K. Singh, Sr. DGM, Civil & Structural Design, HMBP, Shri B. Tigga, Sr. DGM, Finance, Project Division, HMBP, Shri R.K. Mallick, Advisor, Marketing, HMBP and Shri S.K. Chakraborty, G.M, Finance, HEC Ltd. entered into criminal conspiracy with M/s CDC Consulting Design Engineering Centre Pvt. Ltd., Kolkata and in pursuance thereof caused undue favour to the said firm in award of contract of Design and Engineering work in Krishnashila Project, originally bagged by HEC Ltd. from Northern Coal Fields Ltd. as a result of which a wrongful loss of Rs.13.07 lakhs was caused to the Government exchequer. It is alleged that a tender for award of contract for Design and Engineering work in "Krishnashila Project" was floated by

HEC on 20.6.2012 with an estimated cost of Rs.2.6 crores and the closing date as 6.7.2012. Three bidders viz M/s Essar Engineering Service, M/s Struc Mech Engineers (SME) and M/s Fictner India submitted their bids by the closing date, but their bids were not opened without any valid reason and Shri A.K.Singh, Sr. DGM dishonestly and fraudulently moved a proposal for changing the eligibility criteria of the work performed earlier by the firms from Rs.50 lakhs to Rs.100 lakhs and extending the last date of submission to 14.7.2012 in order to invite bids from potentially capable bidders. It is further alleged that the eligibility criteria was changed in order to extend the last date of submission of the bids so that the firm M/s CDC Consulting Design Engineering Centre Pvt. Ltd., Kolkata could submit its bid. M/s CDC Consulting Design Engineering Centre Pvt. Ltd. submitted its bid on 13.7.2012. It is further alleged that on the revised date of opening of the bids i.e. 14.7.2012, a proposal was moved by Shri A.K.Singh for forming the Tender Purchase Committee which was approved on 17.7.2012. As per Schedule of Power, the Committee was required to have one representative of the CMD as the subject contract involved an estimated cost of Rs. 2.6 crores which was neither ensured by Shri A.K. Singh, Sr. DGM nor pointed out by Shri S.K. Chakraborty, GM (Finance). However, even before the approval, the Tender Purchase Committee members opened the bids on 14.7.2012 itself. Thus, a wrongful loss of Rs. 13.07/- lakhs was caused to the Government exchequer and a corresponding wrongful gain to the said firm.

4. Learned counsel for the petitioner submitted that the petitioner has been falsely implicated in this case by the CBI. The Notice Inviting Tender (NIT) was initially prepared in consultation with concerned departments and then forwarded for approval by competent authority through proper channel and the tender was floated as per norms. It was further submitted that the file was placed for approval before the then CMD who verbally advised for changing the eligibility criteria from Rs. 50/- lakhs to Rs.100/- lakhs and the file was returned without the signature of the then CMD. Accordingly, the proposal as advised by the then CMD was put up before him with the extension of submission date as 14.7.15 (11 A.M) and opening at 3 P.M on the same date. The revised proposal was further sent through proper channel and was approved by the CMD and as such the allegation of changing eligibility criteria from Rs.50/- lakhs to Rs.100/- lakhs and extension of submission of bid date as 14.7.15 by the petitioner is totally incorrect and baseless. It was further submitted that the HEC's Works and Service Manual provides for the regulations relating to tenders and all the norms laid down therein have been followed in this case.

Hence, the petitioner cannot be held responsible for favouring the firm M/s CDC Consulting Design Engineering Centre Pvt. Ltd. It was submitted that during course of investigation, the petitioner thoroughly cooperated with the CBI and whenever he was summoned, he appeared and his statement was recorded. He was not arrested during the period of investigation and after investigation, final form has been submitted showing that loss of Rs.13.07/- lakhs has been caused to the HEC due to inaction of the petitioner and cognizance has already been

taken in this case by learned Special Judge.

It is also submitted that petitioner is one of the member of tender committee and Senior D.G.M. I/c (Finance). It is also submitted that other co-accused, namely, Anil Kumar Singh has been granted anticipatory bail by this Court in A.B.A. No. 671 of 2016 vide order dated 01.08.2016.

5. On the other hand, learned counsel for the C.B.I opposed the petitioner's prayer for bail and submitted that after investigation final form has been submitted and referred to several paragraphs of the final form, which are being reproduced herein below:-

"Investigation has further disclosed that the comparative statement of overall evaluation of QP and PP was prepared by A.K. Singh and he fraudulently inter-changed the values of quality Factor and Price Factor to award the contract to M/s CDC Consulting Design and Engineering Centre (P) Ltd., Kolkata, Bandhu Tigga in collusion with A. K. Singh did not check the same properly and in order to favour M/s CDC Consulting Design and Engineering Centre (P) Ltd., Kolkata he deliberately overlooked the interchange in the value of quality point (QP) and price point (PP) and projected that the said evaluation is correct.

Investigation has further disclosed that as per the rates quoted by the firms, M/s. Struc Mec Engineers was the lowest bidder (L-1) with a bid of Rs. 74,26,000/- and M/s CDC was L-2 with a bid of Rs. 87,33,000/-. However, on the basis of the manipulated formula, M/s CDC had been awarded the work at a higher rate. After negotiation, M/s CDC offered the rate of Rs. 82,96,350/- which was still Rs. 8,70,350/- higher than that of the actual lowest bidder M/s Struc Mech Engineers, As such, a wrongful loss of Rs. 8,70,350/- lakhs was caused by Shri A.K. Singh, Sr. DGM I/C (Civil and Structure), HEC Ltd., Ranchi and Shri B. Tigga, Sr. DGM, I/c (Finance), HEC Ltd. Ranchi in illegally awarding the said work to M/s CDC consulting Design Engineering Centre (P) Ltd., Kolkata and corresponding wrongful gain to themselves.

6. Learned counsel for the petitioner relied on the judgment of the Hon'ble Supreme Court reported in Sidhdharam Satlingappa Mehtre v. State of Maharastra & Others reported in (2011) 1 SCC 694, wherein in para-112 of the judgment, the Hon'ble Supreme Court has laid down the facts and parameters which have been taken for consideration while dealing with anticipatory bail.

"112. The following factors and parameters can be taken into consideration while dealing with the anticipatory bail :-

(viii) While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused."

7. Having considered the facts and circumstances of the case, the above named petitioner is directed to surrender before the concerned Court below within a

period of three weeks. If he surrenders before the Court below within the said period, he shall be released on bail on furnishing bail-bond of Rs.10,000/- (ten thousand only) with two sureties of the like amount each to the satisfaction of learned Additional Judicial Commissioner-Cum-Special Judge, C.B.I, Ranchi in connection with R.C. Case No. 14(A)/2014-R, subject to the conditions as laid down under Section 438(2) Cr.P.C.