

(2017) 05 JH CK 0026
In the Jharkhand High Court
Case No : 2693 of 2017

Damodar Valley Corporation

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 18-05-2017

Acts Referred:

[Indian Penal Code, 1860](#), [Section 120B](#)/
[Section 420](#) -
Prevention of Corruption Act, 1988, Section 13(2), Section 13 (1)(d)

Citation : (2017) 05 JH CK 0026

Hon'ble Judges : Anant Bijay Singh

Bench : SINGLE BENCH

Advocate : Prabhat Kumar, K.P.Deo

Judgement

1. Heard learned counsel for the petitioner and the learned standing counsel for the C.B.I.
2. The petitioner is apprehending his arrest in connection with R.C. Case No. 07(S) of 2013-EOW-R registered under Sections 120B read with section 420 I.P.C. and section 13(2) read with section 13 (1)(d) of the Prevention of Corruption Act, 1988.
3. It appears that earlier petitioner had moved this court by filing A.B.A.No.1179 of 2015 for the same relief and this court by passing a detailed order dated 17.11.2016 had rejected the prayer for anticipatory bail of the petitioner.
4. Thereafter, the petitioner preferred Special Leave to Appeal (Cr.) No.9548/2016 and the said Special Leave to Appeal was dismissed as withdrawn on 16.12.2016.
5. The instant anticipatory bail application is second attempt taken by the petitioner for the same relief.
6. Learned counsel appearing for the petitioner while pressing the second bail

application has filed a supplementary affidavit. The Office is directed to make diary entry of the same and tag it with the record.

7. In the said supplementary affidavit, the learned counsel for the petitioner has brought on record the copy of order-sheet dated 04.07.2017 passed by Special Judge, C.B.I. Ranchi. Learned counsel for the petitioner has placed his three fold argument while pressing the bail application, which are as follows :

(i) Since, petitioner being the District Sub Registrar, Ranchi at the relevant time was exercising the quasi judicial function while issuing certificate under the Indian Registration Act, so before initiating any criminal action against the petitioner is unsustainable in law, because

before taking such action prior sanction from the authority concern is required. In this regard learned counsel for the appellant had relied upon the judgment rendered by Bombay High Court (Nagpur Bench) in the case of Yogiraj Vasantrao Surve Vs State of Maharashtra & Anr. [Cr. Application No.470/2011 (APL)] and referred para-14 and 20 of the said case, the relevant portion of which are reads as under :

14. xx xx xx xx xx xx

Moreover, since the applicant was exercising the quasi judicial function while issuing certificate under Section 101 of the Act the criminal action initiated against the applicant on the ground stated in the petition, is unsustainable in law. Such a course, if permitted, would shake the confidence of the authorities exercising judicial and quasi judicial function and expose the judicial and quasi judicial authorities to unwarranted criminal actions. If a party is aggrieved by the order passed by a judicial or quasi judicial authority, appropriate remedy for such a aggrieved person is to resort remedy available under a particular statute or to approach this Court depending upon the facts and circumstances of the case. If criminal action is permitted against persons exercising judicial or quasi judicial function they would be exposed to vexatious criminal proceedings at the instance of disgruntled persons who are aggrieved by the orders passed or actions taken against them by such authorities. Such a course can never be countenanced.

20. In view of the above, we are of the considered view that initiation of the proceeding against the applicant by non-applicant no.2 by filing petition under Section 156(3) of the Code of Criminal Procedure is patently mala fide and with an ulterior motive for wreaking vengeance since the applicant had issued certificate under Section 101 of the Act. As stated above, the applicant cannot be prosecuted for his act done in good faith while discharging quasi judicial function in terms of Section 162 of the Act. Therefore, in our opinion, the order passed under Section 156(3) of the Code of Criminal Procedure and consequential registration of First Information Report against applicant deserve to be quashed and set aside.

Learned counsel for the petitioner while referring Annexure-3 series which is the

order passed by a Bench of Jharkhand High Court in L.P.A No. 321 of 2012 and analogous case, whereby it has been categorically held that if a document, which otherwise complies with the statutory requirements and formalities as required under the Registration Act is presented for registration, the registering authority is bound to register it and it is not for the registering authority to inquire and ascertain the title for its satisfaction.

(ii) The second point raised by the learned counsel for the petitioner is that the alleged SX4 Car was purchased by M/s Sanjeevani Buildcon Pvt. Ltd. in the name of one Praveen Kumar and said Praveen Kumar in no way connected with the petitioner. But it has come in evidence

that the said Praveen Kumar is the driver of the petitioner.

(iii) The third point raised by the learned counsel for the petitioner is the statements of witnesses namely, Praveen Kumar, Rishab Suman and Rakesh Kumar Singh @ Rinku recorded under section 164 of the Cr.P.C. in which they have categorically stated Rs. 5 lacs was provided to him by Shyam Kishor Gupta for making payment to Shahdeo Mehra. But the same has no legal sanctity.

Taking into consideration these aspects, petitioner deserves to be enlarged on anticipatory bail.

8. On the other hand, learned standing counsel for the C.B.I has submitted that taking into consideration the detailed order passed by this court in ABA No. 1179 of 2015 filed by this petitioner and also the point raised in the present bail application, his prayer for anticipatory bail is liable to be rejected.

9. Considering the arguments advanced by the learned counsel for the petitioner and also the learned standing counsel for the C.B.I., I do not find any fresh ground to considering the anticipatory bail application of the petitioner.

10. Accordingly, prayer for anticipatory bail of the petitioner is, hereby, rejected.