(2011) 09 JH CK 0031

In the Jharkhand High Court

Case No : A.B.A. No. 3165 of 2011

Nand Kishore Fogla — APPELLANT

Vs

The State of Jharkhand — RESPONDENT

Date of Decision : 23-09-2011

Acts Referred:

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

Citation : (2012) CriLJ 563

Hon'ble Judges : Dhrub Narayan Upadhyay, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

D.N. Upadhyay, J.—Heard learned counsel for the parties. Petitioner is accused in connection with R.C. Case No. 11(A)/2009-AHD-R registered under Sections 120-B, 420, 467, 468 & 471 of the Indian Penal Code and Sections 13(2) r/w 13(1)(c)& 13(1)(d) of the Prevention of Corruption Act, pending in the Court of Sri N.N. Singh, Special Judge, C.B.I., Ranchi.

2. It reveals from the F.I.R. that a huge amount has been embezzled in the purchase of medicine within the State of Jharkhand under National Rural Health Mission (hereinafter referred to as ''NRHM'' for short). The involvement of the then Health Minister, the then Health Secretaries to the Government of Jharkhand, Doctors, medicine suppliers and other persons have been found and the total sum embezzled has been assessed to the tune of Rs. 130/- crores. It transpires that over purchase of medicine was done on payment of overprice and the procedure laid down for the purchase of medicine, as required under the Scheme NRHM, was not complied with. So far this petitioner is concerned, he is one of the supplier and the name of his firm is M/s. Nand Kishore Fogla. It is alleged that the said firm had supplied medicine to the tune of Rs. 48 crores 58 lakhs odd out of which Rs. 29 crores was billed excess and the amount was received by the said firm.

3. It is submitted that the petitioner, who happens to be the De-jure proprietor of said firm, is particularly blind and he was not in position to do the business. It was his son Rajesh Kumar Fogla who had obtained drug license in the name of petitioner and it is the son who managed with the authorities, obtained orders and supplied medicines with excess billing. The petitioner, being the proprietor, had only signed documents for necessary correspondence and he had no knowledge that his son Rajesh Kumar Fogla had been dealing in illegally for wrongful gain.

4. Learned counsel appearing for the C.B.I. has submitted that more than Rs. 100/-crores of rupees have been defalcated in which the then Health Minister is also involved and he has been put behind the bar. The involvement of petitioner in the said embezzlement could not be excused only because his son had dealt with the business.

5. Since it is matter of embezzlement of more than Rs. 100/- crores and the firm of which the petitioner is proprietor has been benefited to the tune of Rs. 29/- crores, I am not inclined to enlarge the petitioner, above named, on anticipatory bail. Accordingly, this anticipatory bail application stands rejected. Petitioner is directed to surrender in the Court below within a fortnight for seeking regular bail which will be considered by the Court below without being prejudiced with this order.