(2012) 07 JH CK 0168

In the Jharkhand High Court

Case No : B.A. No. 3755 of 2012

Pawan Kumar Jaiswal APPELLANT

Vs

The State of Jharkhand RESPONDENT

Date of Decision : 17-07-2012

Acts Referred:

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

Citation : (2012) 07 JH CK 0168

Hon'ble Judges : Harish Chandra Mishra, J

Bench : Single Bench

Advocate : Indrajit Sinha, for the Appellant; Mokhtar Khan, Advocate For the CBI, for the Respondent

Judgement

H.C. Mishra

1. Heard Learned Counsel for the petitioner and Learned Counsel for the CBI. The petitioner has been made accused for the offence under Sections 120(B), 420, 467, 468, 471 and 477-A of the Indian Penal Code and Section 13 (2) read with Section 13(1)(d) of the Prevention of Corruption Act, in connection with RC.04(A)/2008-D. The case was instituted on the basis of written report submitted by Deputy General Manager, Allahabad Bank informing that in Kumardubi Branch, the then Branch Manager had conspired with several private firms including that of the petitioner and thereby cheated the Bank by granting cash credit facilities and term loans amounting to Rs. 2,09,95,142/- in the year 2004, thereby causing wrongful loss to the Bank for the same amount and corresponding wrongful gain to the accused persons. So far as the petitioner''s firm is concerned, it is alleged that cash credit limit of Rs. 14 lakh and term loan of Rs. 8 lakh was sanctioned to the petitioner''s firm, namely, M/s New Jharkhand Associates on 19.3.2004 for setting up a refractory unit. Upon investigation, it was found that value of the property of the petitioner was shown exorbitantly high, on the basis of which the said cash credit limit and term loan were granted

to the petitioner.

2. Learned Counsel for the petitioner has submitted that the case has since been compromised between the Bank and the petitioner with an approved compromise proposal, according to which, the Bank has agreed to accept Rs. 13,50,000/- only towards full and final settlement of the amount. The petitioner has already paid the amount of Rs. 1,50,000/- to the Bank and rest of the amount of Rs. 12,00,000/- is to be paid by 30th September 2012. Learned Counsel has accordingly prayed for bail.

3. Learned Counsel for the CBI has opposed the prayer for bail submitting that the compromise with the Bank shall not absolve the petitioner of his criminal liability.

4. In the facts of this case, since the case is compromised and the petitioner has also made payment of Rs. 1,50,000/- in terms of the compromise, I am inclined to enlarge the petitioner, Pawan Kumar Jaiswal, on provisional bail up to 1st of October 2012. Accordingly, the petitioner above named is directed to be released on provisional bail till 1st of October 2012 on furnishing bail bond of Rs. 10,000/- (ten thousand), with two sureties of the like amount each, to the satisfaction of learned Special Judge, CBI-cum-Addl. Sessions Judge 1st, Dhanbad, in connection with RC.04(A)/2008-D.

5. If the petitioner produces the proof of payment of Rs. 12,00,000/- to the Bank on or before 1st October 2012, the Court below shall confirm the provisional bail granted to the petitioner.

6. It goes without saying that if the petitioner fails to produce the proof of the payment of the balance amount of Rs. 12,00,000/- by 1st of October 2012, the Court below shall issue process compelling the production of the petitioner before the Court below. This application is disposed of with the direction as above.

