

Rahul Kumar Vs. The State of Jharkhand and Anr

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Court : Jharkhand

Decided On : Aug-30-2017

Appellant : Rahul Kumar

Respondent : The State of Jharkhand and Anr

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI A.B.A. No. 1221 of 2017
Rahul Kumar .. Petitioner Versus 1. The State of Jharkhand 2. Amit Singh .. Opp.
Parties WITH A.B.A. No. 1618 of 2017 Kamkhya Narayan Singh @ Kamakhya
Singh .. Petitioner Versus The State of Jharkhand .. Opp. Party WITH A.B.A. No.
1800 of 2017 Kundan Singh .. Petitioner Versus The State of Jharkhand .. Opp.
Parties ----- CORAM: HON'BLE MR. JUSTICE ANANT BIJAY SINGH -----
For the Petitioner : M/s R.S. Mazumdar, Sr. Advocate. Mr. Kaushik Sarkhel,
Advocate. Mr. Arun Kumar, Advocate. For the State : Mrs. Vandana Bharti, A.P.P.
Mrs. Niki Sinha, A.P.P. Mr. Vikash Kishore, A.P.P. For the Informant/OP-2: Mr.
P.P.N. Roy, Sr. Advocate. Mr. Soumitra Baroi, Advocate. Mrs. Aprajita Bhardwaj,
Advocate. Mr. Vikash Kumar, Advocate. ----- Reserved on :

23. 08/2017 Pronounced on :

30. 08/2017 All the three bail applications are heard together as they arise from
the same F.I.R. i.e. Jharia P.S. Case No. 04 of 2017, corresponding to G.R. No.
95 of 2017, registered under Sections 467, 468, 420, 120B, 406 of the I.P.C. and
Section 138 of the Negotiable Instrument Act lodged on the basis of one written

report given by Amit Singh, opposite party no. 2 alleging therein that opposite party no. 2 / the informant, who is Director of Narayani Infra Construction Private Limited and basically deals with the business for sale of coal since last 6 years and Rahul Kumar (petitioner in A.B.A. No. 1221/2017), Kamkhya Narayan Singh @ Kamakhya Singh (petitioner in A.B.A. No. 1618/2017) and Kundan Singh (petitioner in A.B.A. No. 1800/2017) are having business relationship and informant's Company lifts coal from e-auction from different collieries. It is alleged that from June to October, 2016, total 92 lakhs of coal were lifted by these persons and they have sold to different parties, but have not given him money to -2-informant. Thereafter, informant pursued them on 29.10.2016. It is alleged that on 29.10.2016, with consent, Kundan Singh (petitioner in A.B.A. No. 1800/2017) has given a cheque of Rs. 38,00,000/- to the informant and assured that the remaining amount will be paid by these persons. It is further alleged that on 31.10.2016 when the informant produced the cheque before the bank, he came to know that that Kundan Singh had closed the account on that date. When the informant on 31.10.2016 met Kundan Singh and Rahul Kumar and inquired as to why he has closed the account, they threatened the informant of dire consequences and Kundan Singh called police and wife of Rahul Kumar lodged a false case against informant i.e. Jharia P.S. Case No. 250 / 2016 in which he was taken into custody and was released on bail. On the basis of aforesaid allegation, instant case was instituted. Notices were issued to opposite party no. 2 and on 09.05.2017, both the parties were appeared and possibility of reconciliation of the dispute through the process of mediation was explored, but it failed. So, case diary was called for and the matter was directed to be heard on merits. A.B.A. No. 1221/2017 Learned counsel for the petitioner - Rahul Kumar has submitted that the informant is accused in Jharia P.S. Case No. 250/2016 dated 31.10.2016 registered under Sections 341, 452, 504, 506, 354, 385, 34 of the I.P.C. lodged by Seema Singh, wife of Rahul Kumar. The informant of this case - Amit Singh has stated in para-12 of his regular bail application filed before the trial court that Rahul Singh was his employee and he used to collect money from different parties and misappropriated the amount and the very question of having business relationship is false. So, petitioner deserves the privilege of anticipatory bail. A.B.A. No. 1618/2017 Learned counsel for the petitioner - Kamkhya Narayan Singh @ Kamakhya Singh

has submitted on the same line. Learned counsel has submitted that admittedly money / cheque was given by Kundan Singh and not by this petitioner and there is omnibus allegation against this petitioner. Hence, no case under Sections 420 / 406 of the I.P.C. is made out and this case is counter blast to the case lodged by one Seema -3- Singh, wife of Rahul Kumar i.e. Jharia P.S. Case No. 250/2016, registered under Sections 341, 452, 504, 506, 354, 385, 34 of the I.P.C. against the informant, who has gone to custody. It is further submitted that admittedly there is business relationship between petitioner and informant continuously for six years. Keeping all these facts, petitioner deserves the privilege of anticipatory bail. A.B.A. No. 1800 of 2017 Learned counsel for the petitioner - Kundan Singh has submitted that admittedly it is the case of the prosecution / opposite party no. 2 that petitioner has handed over the cheque of Rs. 38,00,000/- to him which on presentation on 31.10.2016 in the bank, it was informed that the account was closed, so at best offence under Section 138 of the Negotiable Instrument Act is made out, which is bailable and no case under Sections 420, 467, 468, 120B, 406, of the I.P.C. is made out. So, petitioner deserves the privilege of anticipatory bail. Opposite party no. 2 has appeared and has filed counter affidavit and also opposed the prayer for bail. It has been stated that petitioner - Rahul Kumar has criminal antecedent, as it appears from para-17 of the case diary that he is accused in Baktiyarpur P.S. Case No. 178/2014 dated 13.08.2014 under Sections 420 / 406 of the I.P.C. and Section 138 of Negotiable Instrument Act. Further one Complaint Case No. 2896/2016 dated 25.11.2016 under Sections 402, 323, 341, 448, 471, 380, 504, 34 of the I.P.C. was instituted against Rahul Singh and Brajesh Singh. Further, it was submitted that so far conduct of Kundan Singh (petitioner in A.B.A. No. 1800/2017) is concerned, it is apparent that he has given Rs. 38,00,000/- to the informant and when it was produced on 31.10.2017, he came to know that the account is closed, and so, prima facie, offence under Section 420 of the I.P.C. is made out against him, apart from Section 138 of the Negotiable Instrument Act. So, he does not deserve the privilege of anticipatory bail. Learned APP produced the case diary. From perusal of case diary, para-2, it appears that the I.O. has recorded the statement of Amit Singh, who has supported the case of prosecution, and in para-7. I.O. has recorded the statement of Sushant Kumar Singh, in para-8 Sanjay Kumar Gupta has said -4- that

informant had business deal with the petitioners and in course of sale and purchase of the coal, Kundan Singh has given a cheque Rs. 38,00,000/-, which was presented on 31.10.2016 before the bank, but account was closed. In para-9, Bimal Kumar Choudhary has said that both the parties have old business relationship between them and he has supported the prosecution case. Taking all these facts and circumstances, so far anticipatory bail applications of petitioners - Rahul Kumar and Kundan Singh (petitioners in A.B.A. No. 1221/2017 & A.B.A. No. 1800/2017) are concerned, against whom there criminal antecedents, I am not inclined to admit them on anticipatory bail. Accordingly, their anticipatory bail applications are rejected. So far anticipatory bail application filed on behalf of Kamkhya Narayan Singh @ Kamakhya Singh (petitioner in A.B.A. No. 1618/2017) is concerned, I am inclined to admit him on anticipatory bail. The petitioner - Kamkhya Narayan Singh @ Kamakhya Singh is directed to surrender in the Court below within four weeks from the date of this order and in the event of his arrest or surrender, the Court below shall enlarge him on bail on furnishing bail bond of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of Additional Chief Judicial Magistrate, Dhanbad, in connection with Jharia P.S. Case No. 04 of 2017, corresponding to G.R. No. 95 of 2017, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. (Anant Bijay Singh, J.) Sunil/

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