

Sushil Kumar vs.state

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Court : Delhi

Decided On : Feb-21-2019

Appellant : Sushil Kumar

Respondent : State

Judgement :

\$~30 * IN THE HIGH COURT OF DELHI AT NEW DELHI % + Judgment delivered on:

21. 02.2019 CRL. REV. P. 1085/2018 & Crl. M.A. 48874/2018, 48876/2018, 49618/2018 & 3966/2019 SUSHIL KUMAR STATE versus

... Petitioner

..... Respondent Advocates who appeared in this case: For the

... Petitioner

: For the Respondent: Ms. Meenakshi Dahiya, Addl. PP for the State with Insp. Braj Mr. G. Ramakrishna Prasad and Ms. Filza Moonis, Adv. Mohan CORAM:-

"HONBLE MR JUSTICE SANJEEV SACHDEVA JUDGMENT SANJEEV SACHDEVA, J.

(ORAL) 1.

... Petitioner

impugns order dated 14.11.2018 whereby the anticipatory bail application of the petitioner was rejected.

2.

... Petitioner

further seeks anticipatory bail in FIR No.4/2015 under Sections 13(1)(d) Prevention of Corruption Act read with Section 420/409/120B IPC, Police Station Anticorruption Branch.

3. The allegations in the FIR are that need for emergent repair of a Sewage Pump was wrongfully shown and a fictitious bill created for repair done where, in fact, there was no requirement of any repair nor was any repair carried out. The petitioner, who is an Assistant Accounts Officer, is CRL. REV. P. 1085/2018 Page 1 of 3 alleged to have cleared the bill and disbursed the payment against the said bill.

4. Learned counsel for the petitioner submits that the petitioner has been falsely implicated. He submits that the petitioner had no role to play in either the repair work nor sanctioning of the repair work as the same was part of the Engineering Department. He submits that the documents were submitted to the petitioner through the Accounts Officer, which showed that there was an emergent requirement for carrying out repairs and emergent repairs had been carried out and the documents had been signed, counter signed sanctioned up to the level of the Chief Engineer.

5. Learned counsel for the petitioner further submits that at the time when the documents were first submitted, the petitioner had refused to sanction the bill as there was no budget allocation for the same and thereafter the documents were sent back to the Engineering Department, which sent it back to the Treasury for sanction. Subsequently, when the budget allocation was made by the Treasury for the said repair, the documents were, once again submitted to the petitioner through the Accounts Officer and the petitioner, after satisfying himself that all the required CODAL formalities had been carried out, sanctioned the amount.

6. Learned counsel for the petitioner submits that there is nothing on record to show that the petitioner was either aware of any foul play or had any role to pay in the repair work, which was alleged to have been carried out.

7. By order dated 13.12.2018, interim protection was granted to the CRL. REV. P. 1085/2018 Page 2 of 3 petitioner subject to joining investigation.

8. Learned Addl. PP, under instructions, submits that the petitioner has joined investigation and the investigation into the role of the petitioner is concluded and there is no further requirement of petitioner to join investigation.

9. Without commenting on the merits of the case and keeping in view the totality of the facts and circumstances of the case, I am of the view that the petitioner has made out a case for grant of anticipatory bail.

10. In view of the above, the impugned order dated 14.12.2018 rejecting the anticipatory bail of the petitioner cannot be sustained and is set aside.

11. Accordingly, in the event of arrest, the arresting officer/Investigating Officer/SHO concerned shall release the petitioner on bail on his furnishing a bail bond in the sum of Rs. 25,000/- with one surety of the like amount to the satisfaction of the arresting officer/Investigating Officer/SHO concerned.

... Petitioner

shall not do anything which may prejudice the trial or the prosecution witnesses.

12. The petition is allowed in the above terms.

13. Order Dasti under signatures of the Court Master. FEBRUARY21 2019 rs CRL. REV. P. 1085/2018 SANJEEV SACHDEVA, J Page 3 of 3

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