

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **Bail Application No.914/2011**

% Reserved on: 27th July, 2011

Decided on: 2nd August, 2011

A Krishna Reddy

..... Petitioner

Through: Mr. K.T.S. Tulsi, Sr. Adv. with
Mr. G. Tushar Rao, Adv.

versus

Central Bureau of Investigation

..... Respondent

Through: Mr. Dayan Krishnan with
Mr. Gautam Narayan, Advs.

Coram:

HON'BLE MS. JUSTICE MUKTA GUPTA

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| 1. Whether the Reporters of local papers may be allowed to see the judgment? | Not Necessary |
| 2. To be referred to Reporter or not? | Yes |
| 3. Whether the judgment should be reported in the Digest? | Yes |

MUKTA GUPTA, J.

1. By this application, the Petitioner seeks anticipatory bail in case RC-DAI-2010-A-0044 for offences under Section 120B read with Sections 420/467/468/471 IPC and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 (in short 'the PC Act').

2. Learned counsel for the Petitioner contends that none of the allegations made against the Petitioner disclose the essential ingredients of the offences punishable under Section 420, 468, 471, 476 of IPC. The allegations are vague and bald. There is no material annexed to the charge sheet to establish any of the offences alleged against the Petitioner. No allegation has been made against the Petitioner under Section 13(2) read with Section 13(1)(d) of the PC Act. The Petitioner has joined the investigation and appeared before the Investigating Officer on 7th February, 2011, 11th February, 2011 and 12th February, 2011 and was interrogated till late hours of night. A search was also conducted on 11th February, 2011 and 31st February, 2011 and possession of all the documents from the office was taken. Proclamation made under Section 82 Cr.P.C. is based on the allegation of non-appearance of the Petitioner before the Investigating Officer on 14th March, 2011 and 20th April, 2011 when he was not even an accused. The name of the Petitioner for the first time was shown as an accused on the date of filing of the charge sheet on 20th May, 2011 and the Petitioner was declared Proclaimed Offender on 23rd May, 2011. Admittedly, there is no written contract between M/s Gem International and M/s Swiss Timing Limited (STL). Further there was no bar imposed on STL prohibiting it to enter into sub-contract with another company/firm.

3. Learned counsel for the Respondent contends that conduct of the Petitioner has been such that he has been avoiding investigation. Though the Petitioner claimed that he could not appear before the investigating agency on account of his wife's illness, however, when on 31st March, 2011, the CBI searched the residential as well as office premises of the Petitioner, he was not available and was purportedly in Madhya Pradesh on work. The contention that the Petitioner was never informed that he is an accused and now for the first time he has been informed that he is an accused and no non-bailable warrant could have been taken without intimating the Petitioner that he is an accused is wholly incorrect. The Petitioner had filed a petition for anticipatory bail before the High Court of Andhra Pradesh, which was dismissed. The stand of the CBI in respect of the Petitioner was clearly spelt out in the Court and was recorded in the said order. The Petitioner is already influencing the witnesses as one of the PWs was found assisting the learned counsel for the Petitioner before the learned Trial Court. The contention that the Petitioner is a sub-contractor of a sub-contractor and was nowhere in picture when the alleged conspiracy was hatched between OC, STL, Anil Kumar Madan and P.D. Arya, is wholly incorrect. In a case of conspiracy, parties may even enter at a later stage, nonetheless they are liable for the conspiracy. The entire boggy that the Petitioner's concern M/s AKR

Construction Ltd. did the work of laying down underground cabling is incorrect in view of the statement of one Raj Kumar Rawat, who stated that he had done the work of laying cables in Delhi. According to the Petitioner, certain cash payments were made to Anjaiah and Balaiah for allegedly arranging the labour. However, the Petitioner has not been able to produce these two persons. No muster rolls were prepared in this regard. The Petitioner only raised fictitious bills in the name of AKR Constructions. In fact, the Petitioner's concern was a front face to divert the funds and it had done no work. It is also contended by learned Special Prosecutor that during investigation it has been revealed that M/s Gem International, whose partners are Anil Kumar Madan and P.D. Arya, was acting as some sort of agents/associates of M/s STL in the matter of dealing with the Organizing Committee and huge amounts were transferred by M/s STL to M/s Gem International on the pretext of its carrying out some sub-contractual work relating to provision of TSR system for CWG 2010. M/s Gen International received at least ₹23 crores from STL on the basis of generic, vague, lump sum and incorrect invoices, which do not contain rates, quantities or details of works carried out by them. It has further been revealed that the invoices are false and are not based on genuine commercial transactions. The money was

further siphoned off to Petitioner's company from M/s Gem International on the basis of fake invoices.

4. I have heard learned counsel for the parties. A perusal of the statement of witnesses and the charge sheet shows that though the Petitioner alleges that he entered into a contract for laying down underground cables with M/s Gem International, however, he could neither produce the persons, who did the work nor the muster rolls but only invoices and bills raised were shown. This claim of the Petitioner appears to be false in view of the statement of PW17, Raj Kumar Rawat, who has stated that he did the cabling work in Delhi for TSR. The Petitioner may not be part of the conspiracy initially, however, if he joins the chain subsequently, he would still be a part of the conspiracy. As per the statement of PW 28 and PW31, it is clear that no work was done by AKR for laying the cables. From the investigation conducted so far the Petitioner's company appears to be a front face for siphoning the money. However, the Petitioner has not been able to produce the persons from whom he had arranged the labour nor any other documents except certain invoices raised in the name of Anjaiah and Balaiah. The interrogation of the Petitioner is necessary to explain the money trail as to where the money had gone after being collected in the name of laying underground cables.

5. In view of these facts, I do not find any merit in the application. The application is accordingly dismissed.

(MUKTA GUPTA)
JUDGE

AUGUST 02, 2011
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