

Arvind Vithalbhai Vs. State
CNR No.PBSA01-005761-2018
Date of order 4.9.2018

**IN THE COURT OF DR. HARPREET KAUR, ADDITIONAL
SESSIONS JUDGE, SAS NAGAR (MOHALI)**

Arvind Vithalbhai Patel Son of Late Sh. Vithalbhai G. Patel, aged about 53 years, resident of Radhevi Krupa, N.R Abhyuda Park Society, Near Nehru Baug, District Anand, Gujarat.

Vs
State

Bail Application under Section 438 Cr.P.C .

CNR No.PBSA01-005761-

2018

Date of order 4.9.2018

Present: Sh.Premjit Singh Hundal, Advocate, Counsel for bail-applicant.
Sh.Manjit Singh, Additional public prosecutor for State

ORDER

1. This order shall dispose off above-mentioned bail application moved by applicant/accused Arvind Vithal Bhai seeking his bail under Section 420 IPC, by invoking the provision of Section 438 CrP.C.
2. Notice of the application was given to State and the same has been contested on its behalf by Additional Public prosecutor .
- 3 I have heard ld counsel for the accused/applicant,Addl PP for the State,and have carefully gone through the record.

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4 Brief facts of the case are that the present case has been registered upon the application of C.B Rathi, Managing Director of M/s Amar Infrastructure Limited, wherein he alleged that M/s Amar Infrastructure and M/s Patel Infrastructure through its Managing Director Arvind Vithalbhai Patel (applicant/accused) entered into pre-bid memorandum of understanding on 21.4.2012 regarding the work under tender to be carried out by M/s Amar Infrastructure Limited. As per Memorandum of Understanding M/s Amar Infrastructure limited will give 5 percent of Rs.596 crores i.e. Rs. 30 crores to M/s Patel Infrastructure Pvt ltd . The margin money for bank guarantee i.e. Rs15 crores was paid by M/s Amar Infrastructure to M/s Patel Infrastructure Pvt Ltd on April 2012. M/s Amar Infrastructure limited and M/s Patel Infrastructure Pvt limited entered into post-bid memorandum of understanding on 14.8.2012. M/s Patel Infrastructure Pvt Limited revised and increased the royalty upto 13 percent i.e. Rs.78 crores. First R.A. bill of Rs. 2.46 crores was paid to M/s Patel Infrastructure Pvt Ltd in March 2013. M/s Patel Infrastructure Limited paid only Rs.1.98 crores to M/s Amar Infrastructure Limited, which was not paid as per Memorandum of Understanding. It is alleged that the problem arose due to 15 percent extra amount paid due to technical error in escalation clause of contract, which will be paid in all bills resulting in additional profit of 15 percent of Rs. 599 crores which comes out to around 90 crores and probably is the main

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reason of fraud and cheating done by M/s Patel Infrastructure Pvt Ltd and its officials and management. M/s Patel Infrastructure is still using their plant and machinery at project site and also purchased their own plant and machinery. Hence, the complaint was filed.

5. Perusal of the record reveals that the case is based on documentary evidence. Prima facie, the dispute is with regard to amount of Rs.48 lakhs which were paid less by the M/s Patel Infrastructure Private limited to M/S Amar Infrastructure limited. Even as per the statement of the complainant C.P Rathi, the accused when asked as to why he has not given the amount as per Memorandum of Understanding, he stated that in the contract with PWD, the formula given in escalation clause is wrong due to which the said cut has been made. In the opinion of the court, the transaction between the parties appears to be of civil nature. No useful purpose will be served by keeping the accused in custody. Therefore, it will be in the fitness of things to direct to applicant/accused to join the investigation of this case with the investigating officer within 3 days albeit with direction to the investigating officer/arresting officer that in the event of arrest applicant/accused, be admitted to interim bail, on his furnishing bail bonds/surety bonds in the sum of Rs.2 lakhs with one surety of the like amount, to his satisfaction, subject to the following conditions:-

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- 1- That the applicant will not leave the country without prior permission of the Court.
- 2- That the applicant will not tamper with the prosecution evidence.
- 3- That the applicant will join the investigation as and when called by the Investigating Officer.

Report of Investigating officer be called for 13.9.2018. Police record be returned.

Pronounced in open Court.
4.9.2018

(Dr. Harpreet kaur)
Addl. Sessions Judge,
S.A.S. Nagar (Mohali).
UID no.PB-0443