



An enquiry report was submitted by the S.I, Pasighat Police Station on 19.05.2009 before the O/C, Pasighat Police Station, to the effect that M/s Sagi Electric Company, 1630 Sector, Chandigarh Sector 7C, PIN-160019, was awarded contract works for execution of electrification of villages under Mechuka Sub-Division for Rs. 18,59,63,201/- and for the said contract works, the said company furnished Bank guarantee of Rs. 100 crores or above to the Department but the said Bank guarantee obtained from the SBI Worli(North) Branch, Nirlon House, Mumbai, is false and accordingly, the O/C, Chandigarh Police Station was requested to conduct an enquiry about the existence of the said company and details thereof. But no enquiry report has been received. However, subsequently, one Supervisor of M/s Sagi Electric Company, Mr. Javed Saifee, appeared at police station and submitted documents and reported that M/s Sagi Electric Company had an agreement with Sri Vijay Kumar Agarwal (present respondent) of Tinsukia as 2<sup>nd</sup> party and M/s S/Y Builders Developers of Papum Pare District, Nirjuli, represented by Shri Likha Saaya as 3<sup>rd</sup> party for execution of works and accused Vijay Kr. Agarwal accordingly has submitted the said false and forged Bank guarantee form on behalf of aforesaid M/s Sagi Electric Company, with malafide intention. The aforesaid report was received on 19.05.2009 and registered as Pasighat Police Station Case No. 43/2009 under Sections 468/471/420/406/120(B) I.P.C.. The respondent accused Sri Vijay Kr. Agarwal filed a bail application being B.A. No. 132(AP) 2009 for pre-arrest bail and this court, vide order dated 18.09.2009 called for the CD fixing 20.10.2009 with an interim order to the effect that in the event of arrest in connection with the aforesaid police case, respondent accused Sri Vijay Kr. Agarwal shall be enlarged on bail of Rs. 20,000/- with one like amount to the satisfaction of investigating agency. Before the date fixed for production of CD i.e. 20.10.2009, the respondent accused Sri Vijay Kr. Agarwal surrendered in the court of JMFC, Pasighat, through his counsel although there was no direction to surrender before the Magistrate concerned. On his surrender, the JMFC, Pasighat, granted regular bail to the respondent accused Sri Vijay Kr. Agarwal on furnishing a bail bond of Rs. 20,000/- with one local surety of like amount with other conditions that he shall appear before the I.O. of the case and court when summoned. Thereafter, on 20.10.2009 i.e. the date fixed for production of

CD, learned counsel for respondent accused Sri Vijay Kr. Agarwal, informed the court that accused has already appeared before the JMFC, Pasighat on 06.10.2009 and that the bail was granted to respondent accused Sri Vijay Kr. Agarwal on certain conditions and on the basis of such submission, the pre-arrest bail application was closed vide order dated 20.10.2009. While respondent accused Sri Vijay Kr. Agarwal was on bail, summon was issued to him for appearance before the Tinsukia police on 16.11.2009 but he could not appear as the summon was received only on 23.11.2009 and for which, his father sent a letter dated 24.11.2009 addressed to the O/C, Crime Branch Police Station(SIT), PHQ, Itanagar. In the said letter, it was intimated that respondent accused Sri Vijay Kr. Agarwal was not feeling well and needed bed rest. Thereafter, the O/C, Crime Branch Police Station(SIT), PHQ, through O/C Tinsukia Police Station, sent a W.T. message, asking the respondent accused Sri Vijay Kr. Agarwal to appear on 26.08.2010 at 1000 hours in connection with the aforesaid Pasighat Police Station case. The respondent accused Sri Vijay Kr. Agarwal by his letter dated 24.08.2010 informed the O/C, Crime Branch Police Station(SIT), PHQ, Itanagar, that he received the summon only on 26.08.2010 and as such, it would not be possible on his part to be present at the Crime Branch Police Station(SIT), PHQ, Itanagar, due to his health problem and advise of the Doctor for bed rest. The respondent accused Sri Vijay Kr. Agarwal failed to appear before the investigating agency on 2 occasions and he remained silent. He did not even ask for a future date for his appearance as reflected from his letters dated 24.11.2009 and 26.08.2010.

The petitioner State of Arunachal Pradesh filed this criminal petition on 23.09.2010 for cancellation of the aforesaid bail granted to respondent accused Sri Vijay Kr. Agarwal. Notice was issued by this court on 24.09.2010 making it returnable within 3 weeks. The respondent accused Sri Vijay Kr. Agarwal obtained a certificate from one Dr. Nilutpal Sut, Consultant International Cardiologist with Sanjevani Hospital, Guwahati, on 24.10.2010 certifying that he has been suffering from acute coronary syndrome since 1 ½ years advising to take complete home rest and stress-free lifestyle for 3 months.

It is to be noted that respondent accused Sri Vijay Kr. Agarwal while he was on interim bail as granted by this court on 18.09.2009 surrendered himself before the court of learned JMFC, Pasighat, prior to the date fixed for producing the CD for consideration of his anticipatory bail although no such order was passed by this court either to appear before the investigating agency or the court below. Conveniently, he appeared and filed an application before the court of learned JMFC, Pasighat, on 06.10.2009 and obtained the regular bail order by applying manipulative tactics without giving any opportunity to this court to consider his pre-arrest bail on the next date fixed for production of CD i.e. 20.10.2009. The way in which the respondent accused Sri Vijay Kr. Agarwal obtained regular bail order, is not at all acceptable. Even after obtaining the regular bail from the court of learned JMFC, Pasighat, in an improper manner, he avoided to appear before the police at least on 2 occasions on the ground that he received the summons after the date fixed for his appearance before the police and that he is suffering from some ailments and under advice by the Doctor to take bed rest. No request was made by the respondent accused Sri Vijay Kr. Agarwal for fixing a date for his appearance. He did not express his intention to appear before the police on a future date. Nor did he ask the police for a future date for his appearance. It may also be noted that the respondent accused Sri Vijay Kr. Agarwal obtained the medical certificate only after a notice was issued by this court on 24.09.2010 in regard to the application for cancellation of bail filed by the State of Arunachal Pradesh. In the order dated 06.10.2009 granting regular bail, the learned JMFC, Pasighat, imposed a condition that the respondent accused Sri Vijay Kr. Agarwal shall appear before the I.O. of the case and the court when summoned. This condition has been violated by the respondent accused Sri Vijay Kr. Agarwal and as such, the order dated 06.10.2009 granting regular bail to him, is liable to be cancelled in the interest of investigation and justice. Accordingly, the bail order dated 06.09.2009 granted by the court of learned JMFC, Pasighat, to the respondent accused Sri Vijay Kr. Agarwal in connection with Pasighat Police Station Case No. 43/2009, stands cancelled.

The petition stands allowed.

The investigating agency/arresting authority shall arrest the respondent accused Sri Vijay Kr. Agarwal in connection with the aforesaid Pasighat police case.

Registry shall send a copy of this order to Superintendent of Police, East Siang District, Pasighat and the O/C, Pasighat Police Station, Pasighat, for taking necessary action.

With the above directions, this criminal petition stands disposed of.

**JUDGE**