

IN THE HIGH COURT OF JHARKHAND AT RANCHI
A.B.A. No.6081 of 2021

1. Dinesh Pradhan	
2. Mahesh Pradhan Petitioners
Versus	
The State of JharkhandOpposite Party

CORAM : HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

For the Petitioners	: Mr. R.S. Mazumdar, Sr. Advocate
For the State	: Mr. Priya Shrestha, Spl.P.P
For the Informant	: Mr. Shailesh, Adv.

Order No.02 Dated- 07.09.2021

Heard the parties through video conferencing.

Learned senior counsel for the petitioners undertakes to remove the defects pointed out by the stamp reporter within two weeks after the lockdown is over.

In view of personal undertaking given by the learned senior counsel for the petitioners, the defects pointed out by the stamp reporter are ignored for the present.

Apprehending their arrest in connection with Bank More P.S. Case No. 354 of 2019 instituted under Sections 406, 420, 34 of the Indian Penal Code, the petitioners have moved this Court for grant of privileges of anticipatory bail.

Learned senior counsel appearing for the petitioners submits that the allegation against the petitioners is that the petitioners entered into an agreement with the informant for purchasing 100% shares of the company in the name of M/s. Pre Stressed Udyog (India) Pvt. Ltd. and the value of the entire shares was fixed as 17.45 crores. At the time of the agreement entered into between the parties in this respect, the petitioners paid Rs.4.77 crores only and after that the informant gave the possession and control of the said M/s. Pre Stressed Udyog (India) Pvt. Ltd and continuously requested the petitioners to settle the account and transfer the entire shares in their name but the petitioners did not pay any heed to the informant. The petitioners have filed annual return in the year 2019 before the Registrar of Companies from which it was found out that both the petitioners being brothers, in illegal manner committed forgery and transferred 10.70 lakhs share in their names even though the informant has not given the original copy of the shares certificates and the informant did not fill up form CH-4 but the petitioners have prepared

the forged documents and deposited the same with the Registrar of Companies.

It is submitted that the allegation against the petitioners is false. It is next submitted that the petitioners have been made accused only because they happened to directors of M/s. Pre Stressed Udyog (India) Pvt. Ltd. It is further submitted that the informant approached the petitioners as his company was facing loss and since the informant and his family members were the shareholders of the company, a share purchase agreement was entered into between the petitioners, the informant and other shareholders of the company in question, the copy of which has been kept at Annexure-2 of the brief. It is also submitted that thereafter the petitioners have paid entire consideration amount to the erstwhile directors of the company in their respective bank account as per Clause 3 and Schedule-3 of the said agreement, the photo copy of the bank statements and cheques are annexed as Annexure -3 series of the brief. It is then submitted that thereafter the informant and his son namely Manish Verma have tendered their resignation to the Board of Directors vide letter dated 02.05.2017 and consequent upon this, the petitioners have been made directors of the company in question and accordingly, their names were inserted in Form-DIR-2. It is further submitted that even after getting the entire consideration amount, the informant with a malicious intention, has not handed over the original share certificates and other relevant documents and has retained the same and the petitioners started discharging the liabilities of the company and operated the same. It is next submitted that ultimately the petitioner no.2 has lodged a case being Bank More P.S. Case No.338 of 2019 against the informant and others and the same case was registered for the offences under Sections 420, 504, 34 of the Indian Penal Code. It is further submitted that as per the Share Purchase Agreement, the petitioners had paid all the liabilities which were borne by the company and has paid entire amount to the informant in the account of the informant and his family members. It is also submitted that the entire amount of Rs.4.77 crores was paid by the petitioners in respect of M/s. Pre Stressed Udyog (India) Pvt. Ltd only and the said amount has got nothing to do any other transactions between the parties. It is then submitted that even after receiving the entire consideration amount, as the informant with malafide intention was not transferring the same hence in terms of Section 56 of the Company Act, 2013, the shares stood transferred in the name of the petitioners. It is next submitted that the dispute is basically a civil dispute and the appropriate forum is National Company Law Tribunal and the informant has already taken recourse in the said tribunal by filing the

company petition before National Company Law Tribunal, Kolkata wherein the petitioners have also been made party as respondents, the photocopy of which petition filed before the National Company Law Tribunal by the informant has been annexed as Annexure-5 of the brief. It is further submitted by learned senior counsel for the petitioners that as a counterblast to the said Bank More P.S. Case No.338 of 2019, this false case has been foisted against the petitioners. It is next submitted that even after selling of the company in question to the petitioners, as the informant and his son were indulging in transferring the amount by showing themselves as the directors of the said company in question, for that, the petitioner no.2 has already lodged a case being Bank More P.S. Case No.106 of 2021, the copy of which has been kept at Annexure-6 of the brief. Learned senior counsel for the petitioners draws attention of this Court towards the page no.60 of the brief which is the chart showing the details of the payments and submits that therein the details of the payment and liability have been mentioned and according to which, the informant has received more amount than the amount which the informant is entitled in respect of the dispute for which this First Information Report has been lodged. It is lastly submitted that the petitioners are ready and willing to co-operate with the investigation of the case. Hence, it is submitted that the petitioners be given the privileges of anticipatory bail.

Learned Spl.P.P appearing for the State assisted by learned counsel for the informant opposes the prayer for anticipatory bail of the petitioners and submits that though the petitioners claimed to pay Rs.4.77 crores in respect of M/s. Pre Stressed Udyog (India) Pvt. Ltd to the informant but the said amount also includes the amount paid by the petitioners to the informant in respect of another company namely M/s. Mars Mercantiles Pvt. Ltd. It is next submitted that the Shareholders List of M/s. Pre Stressed Udyog (India) Pvt. Ltd as per the Share Purchase Agreement, shows that the petitioners are holding 5,35,000 shares each of the said company. It is next submitted that an instrument of transfer has not been entered into between the parties in terms of the Clause-3 of the Share Purchase Agreement dated 21.02.2017 and this is one of the wrongs committed by the petitioners. Hence, the petitioners ought not to be given the privilege of anticipatory bail.

Considering the submissions of learned counsels and the facts of the case as also the fact that though the investigation of the case is going on for over one and half years yet no documents have been brought on record to suggest that the petitioners have forged any particular document and as mentioned in the

F.I.R. itself that informant admits of having received of Rs.4.77 crores from the petitioners in respect of the agreement entered into between the parties in respect of only M/s. Pre Stressed Udyog (India) Pvt. Ltd. The dispute between the parties is essentially a civil dispute and the part of the amount has admittedly been paid by the petitioners and there is no specific allegation of any dishonest intention on the part of the petitioners at the time of entrustment of the possession and control of the company to the petitioners. Undisputedly, the petition filed by the informant relating to the dispute in respect of which the First Information Report of this case has been lodged, is pending before the National Company Law Tribunal, Kolkata, hence this court is inclined to grant privileges of anticipatory bail to the petitioners.

Accordingly, the petitioners are directed to surrender in the Court within ten weeks from today and in the event of their arrest or surrendering, they will be enlarged on bail on furnishing bail bond of Rs.2,00,000/- (Rupees Two Lakhs) each with two sureties of the like amount each to the satisfaction of learned CJM, Dhanbad in connection with Bank More P.S. Case No. 354 of 2019 **with the condition that they will co-operate with the investigation of the case and appear before the investigating officer as and when noticed by him and furnish their mobile number and photocopy of the Aadhar Card with an undertaking that they will not change their mobile number during the pendency of the case** and subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Anil Kumar Choudhary, J.)