

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10968 of 2020

Arising Out of PS. Case No.-926 Year-2019 Thana- KHAJANCHI HAT District- Purnia

1. Awadhesh Kumar Jaiswal aged about 60 years (male), son of Sri Shankar Prasad Jaiswal
2. Prince Deepam @ Deepam aged about 27 years (male), son of Awadhesh Kumar Jaiswal
Both R/o Ward No.14, Main Road, P.S.-Bihariganj, District- Madhepura, at present residing at R.N. Shaw Chauk, Near Bank of India, Bhatta Bazar, P.S.- K.Hat, District- Purnea.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Y.C. Verma, Senior Advocate

For the Opposite Party/s : Mr. Zainul Abedin , APP

Mr. Saket Tiwary, Advocate

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

4 01-12-2020 Heard Mr. Y.C. Verma, learned senior counsel for the petitioners, Mr. Saket Tiwary, learned counsel for the informant and Mr. Zainul Abedin, learned Additional Public Prosecutor appearing for the State through video conferencing.

Petitioners apprehend their arrest in connection with K. Hat (Sahayak) P.S. Case No. 926 of 2019 registered for the offence punishable under Section 406 / 420 of the I.P.C.

The prosecution story as per the First Information Report is that the informant and petitioner no. – 1 entered into a



partnership agreement and started partnership firm for the business of electric motor and pump set machinery etc. It has further been alleged that capital of Rs. 21,50,000 /- was invested by the informant and petitioner no. – 1 invested a capital of Rs. 27,50,000/- in the financial year 2019 in the partnership firm and profit of Rs. 24 lakhs was earned which was distributed between the partners. It has also been alleged that subsequently petitioner no. 1 allowed his son petitioner no. – 2 as partner of the firm and he dealt with the affairs of the firm and the petitioners subsequently floated another firm by misappropriating the stocks of the partnership firm in their own firm leading to a loss of Rs. 21,50,000/- and dividend share to the informant.

Learned senior counsel for the petitioners submits that from perusal of the First Information Report it would be evident that no case, much less, any criminal case is made out against the petitioners inasmuch as the dispute between the parties is a civil / commercial dispute relating to partnership business. Learned counsel further submits that the ingredients of Section 420 and 406 of the I.P.C. is not made out. The petitioner no. 1 has also filed a Title Suit bearing Title Suit No. 8 of 2020 for dissolution of partnership and rendition of



account. Learned counsel further submits that the dispute between the informant and petitioners is purely an accounting dispute and as per clause xviii of the partnership deed the parties may resolve their dispute by way of arbitration.

On the other hand, learned counsel for the informant vehemently opposes the prayer for anticipatory bail and submits that the petitioners with dishonest intention have misappropriated and transferred stocks in their new firm thereby causing a huge loss of Rs. 21,50,000/- and dividend share to the informant.

Having regard to the submissions made by the parties and taking into consideration the materials available on record and the nature of dispute between the parties, I am inclined to grant anticipatory bail to the petitioners.

Accordingly, in the event of arrest or surrender before the court below within six weeks from today, petitioners, above named, shall be released on anticipatory bail on furnishing bail bond of Rs. 25,000/- (twenty five thousand) each with two sureties of the like amount each to the satisfaction of learned C.J.M., Purnea in connection with K. Hat (Sahayak) P.S. Case No. 926 of 2019, subject to the condition as laid down under Section 438 (2) of the Code Of Criminal Procedure.



It is made clear that at the time of furnishing bail bonds all the parties shall follow the guidelines regarding social distancing.

(Anil Kumar Sinha, J)

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