$~8 &13 *(common order)*

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Decided on: 14th February, 2022***

\+ **BAIL APPLN. 4266/2021**
CRL.M.(BAIL) 1482/2021

HARSH NEWAR ..... Petitioner
Represented by: Mr.Amit Sharma, Senior Advocate with Mr.Arshdeep Singh, Mr.Aditya Chopra, Mr.Tapan Masta, & Mr.Aditya Bhardwaj, Advocates.

versus

STATE ..... Respondent
Represented by: Mr. Ravi Nayak, APP for the State with SI Ajay Singh, PS Pahar Ganj.
Mr.Saurabh Sharma, Advocate for the Complainant.

\+ **BAIL APPLN. 4516/2021**
CRL.M.A. 21006/2021

NARAINI NEWAR ..... Petitioner
Represented by: Mr.Arshdeep Singh, Advocate with Mr.Aditya Chopra, Advocate.

versus

STATE OF NCT OF DELHI ..... Respondent
Represented by: Mr.Ravi Nayak, APP for the State with SI Ajay Singh, PS Pahar Ganj.
Mr.Saurabh Sharma, Advocate for the Complainant.

CORAM:
HON'BLE MS. JUSTICE MUKTA GUPTA

JUDGMENT: (ORAL)

The hearing has been conducted through Physical Mode.

1. By these two petitions, petitioners who are mother and son seek anticipatory bail in FIR No.308/2017 under Sections 420/468/471 IPC registered at PS Pahar Ganj, Delhi.

2. Learned counsel for the petitioners contends that the complainant is the brother-in-law of Naraini Newar and paternal uncle of Harsh Newar. Both the families were having joint business which got separated pursuant to the Memorandum of Understanding (MOU)/ Dissolution Deed arrived at between the parties. Neither the terms nor the execution of the MOU/Dissolution Deed are disputed. However, it is alleged that the date in the said MOU has been forged and though the MOU was dated 11th September, 2001, which fact is admitted by the petitioners in various proceedings however, the same was posted on 3rd September, 2000 which postal receipts are also forged and fabricated. The petitioners have joined the investigation and no further recovery is to be made from the petitioners. Besides lodging of the FIR, the complainant also filed a suit for specific performance of the Memorandum of Understanding and grant of damages which was dismissed as barred by limitation and having failed in the said attempt, the above-noted FIR was got registered.

3. Learned APP for the State has taken this Court through the FIR and claims that during the investigation the endorsement on the postal receipts was found to be forged and fabricated. An expert opinion has been received from the Truth Lab as per which the writing and signatures on the questioned document and the admitted documents tally and thus the petitioners forged the questioned documents.

4. Learned counsel for the complainant further submits that by utilising this forged and fabricated documents, the petitioners caused a serious financial loss to the complainant to the tune of approximately ₹2 crores and since the investigation reveals that the petitioner forged the documents, anticipatory bail be not granted to them.

5. The above-noted FIR was registered on 9th October, 2017 on the complaint of Kailash Newar who stated that he is the Director of M/s Sarda Solvent Extractions Pvt. Ltd. (in short 'M/s Sarda') and guarantor of M/s Exho Exports, New Delhi (in short 'M/s Exho') against various credit facilities/loans provided by the Bank of Rajasthan, Kamla Nagar, Delhi and his sister-in-law Ms.Naraini Newar was one of the partners of M/s Exho. In the year 2001 the account of M/s Exho was declared a non-performing asset (NPA) and thus the bank filed recovery proceedings before the Debt Recovery Tribunal (DRT) bearing OA No.210/2002. The complainant along with his brother Satish Newar, husband of Naraini Newar was carrying on family business jointly. Since the dispute arose between the parties, to resolve the dispute MOU dated 11th September, 2001 was entered into between them. In terms of the MOU, M/s Exho came to the share of Seema Newar, wife of the complainant and other firm M/s Excellent Hosiery Products (in short 'M/s Excellent') came to the share of Satish Newar, husband of Naraini Newar. M/s Sarda had given the guarantee against loans taken by both these firms.

6. It is further alleged that on 25th January, 2012 the complainant received certified copies of some documents which reveal that Naraini Newar in collusion with her son Harsh Newar and husband Satish Newar filed forged and fabricated postal receipts and Dissolution Deed

along with the false affidavit before the DRT. The complainant stated that Ms.Naraini Newar claimed before DRT that she had sent the dissolution deed of M/s Exho to Bank of Rajasthan through letter posted against alleged postal receipts dated 3rd September, 2001 whereas the Dissolution Deed itself is dated 11th September, 2001 and was notarised on 11th September, 2001. Thus the Xerox copy of the document executed on 11th September, 2001 could not have been sent on 3rd September, 2001. Further the postal receipt dated 3rd September, 2001 by which it is claimed that the dissolution deed was sent to Bank of Rajasthan is also forged for the reason it mentions "*Received a registered insured*" despite the fact that the same was not insured and the endorsement was manual whereas Civil Lines post office was issuing computerised postal receipt against booking of Registered AD letters since the year 2001. Further on 24th April, 2004 the accused persons published a public notice in the newspaper '*The Statements*' stating that the Dissolution Deed of M/s Exho was executed on 11th September, 2001.

7. The petitioners had applied for the anticipatory bail before the learned Additional Sessions Judge and since at that stage the investigation was at its initial stage and the petitioners were not required to be arrested the anticipatory bail petitions were disposed of vide order dated 12th April, 2018 directing the Investigating Officer to serve a five days notice to the petitioners in case they are required to be arrested. The investigation from the post office was also conducted wherein it was replied from the Senior Superintendent of Post Office, Delhi North Division stating that when computers remain out of order then post office concerned issues manual receipts subject to

availability of printed receipt books. However, the records being weeded out it cannot be stated that on the said date the computers were functioning or not and it could not be verified that the manual receipt No.530 dated 3rd September, 2001 was executed or not as the record had been weeded out. Statement of concerned officer was also recorded who denied his signatures on the postal receipt.

8. As noted above, the contents of the Dissolution Deed are not disputed and both the parties claimed that the same was executed on 11th September, 2001 however, on one of the copies under the signatures of Naraini Newar the date of 28th August, 2001 has been mentioned and the Xerox copy of the document was sent to the concerned bank vide the registered AD dated 3rd September, 2001. Since the FIR was registered on 9th October, 2017 and the petitioners have been joining the investigation since then, no further recovery is required to be made from the petitioners and the evidence is documentary in nature which documents have already been collected, this Court deems it fit to grant anticipatory bail to the petitioners.

9. It is, therefore, directed that in the event of arrest the petitioners be released on bail on their furnishing a personal bond in the sum of ₹25,000/- (Rupees twenty five thousand only) each with one surety bond each of the like amount, subject to the satisfaction of the Arresting Officer/SHO concerned, further subject to the condition that the petitioners will join the investigation as when directed by the Investigating Officer. The petitioners will not leave the country without prior permission of the Court concerned and in case of change of residential and/or mobile phone number, till the filing of the charge-sheet the same will be intimated to the Investigating Officer and

thereafter to the learned Trial Court by way of an affidavit.

10. Petitions and applications are disposed of.

11. Order be uploaded on the website of this Court.

(MUKTA GUPTA)
JUDGE

FEBRUARY 14, 2022
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