

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18253 of 2024

Arising Out of PS. Case No.-340 Year-2021 Thana- GANDHIMAIDAN District- Patna

1. Devashish Purkayastha S/O Late Gopika Ranjan Purkayastha Resident Of Eden Polly Lake Side, Flat No 4a, 4th Floor, Block- F1, 319, Mahatma Gandhi Road, Kabardanga Ramchandrapur, Vtc, Kolkata (MC), P.S.- Rc Thakurani, District Kolkata (WEST Bengal)
2. Himanshu Shekhar S/O Sahdeo Jha R/O Panchvatee, 480- Nehru Nagar, Near Forest Office, P.S- Patliputra, Distt.- Patna.
3. Binu Kakkanattu Jose @ Binu K Jose @ Binu Kakkaanattu Jose S/O K J Jose R/O Flat No.-23, Galaxy Apartment-2, New Patliputra Colony, P.S- Patliputra, Distt.- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Pankaj Kumar S/O Late Sukesh Prasad Singh Enforcement Officer, Regional Office EPFO, Patna. R/O Flat No.607, Shyam Residency, Rps More, Bailey Road, P.S- Rupaspur, Distt.- Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Siddharth Harsh
For the Opposite Party/s : Mr.Sanjay Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 2 02-04-2024 **1.** Heard learned counsel for the petitioners, learned A.P.P. for the State along with learned counsel appearing on behalf of Employees' Provident Fund Organisation (EPFO).
- 2.** The petitioners apprehend their arrest in a case registered for the offences punishable under Sections 406 and 409 of the Indian Penal Code.
- 3.** Learned counsel for the petitioners submits that the petitioner No. 1 has antecedent of one case and petitioner nos. 2 and 3 are persons with clean antecedent. It is next submitted that petitioners have been falsely implicated in the instant case by



the informant without appreciating the controversy involved in the case in its correct perspective. It is further submitted that in sum and substance, the allegation is that an amount of Rs. 5.14 Crore was due with the company to be deposited with the Employees' Provident Fund Organisation (for short "EPFO") but then the said amount was not credited with the aforesaid Organisation when it was mandatory in terms of law. It is further submitted that what is not in dispute rather stands admitted is that the amount which became due to be deposited with the EPFO, became due on 28-2-2017 when petitioners were not the Directors of the Company. It is further submitted that the petitioner No. 1 joined as Director of the company on 29-09-2018, petitioner No. 2 joined on 23-11-2017 and petitioner No. 3 joined on 31-12-2020. It is thus submitted that admittedly when the amount became due, the petitioners were not the Directors of the company but were appointed subsequently. It is also submitted that prior to petitioners' joining the post of Director in the company, the amount due was being credited in the account of the EPFO since 7-3-2017 and subsequently after appointment of the petitioners, the entire amount got deposited, but then after institution of the instant FIR. It is also submitted that the company in question presently



is under liquidation and the matter is pending adjudication before NCLT, Kolkata as such, the dispute raised in the FIR with respect to interest and damages cannot be looked into by the petitioners as the company is under liquidation.

4. The learned counsel appearing on behalf of EPFO fairly submits that the amount due now has been credited but then the amount of interest and damages is due.

5. Considering the submissions made by the learned counsel for the petitioners, the petitioners above-named, in the event of their arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Gandhi Maidan P.S. Case No. 340 of 2021, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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