

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**

A. B. A. No. 773 of 2024

Md. Shahid Akbar

..... Petitioner

Versus

1. The State of Jharkhand

2. Mumtaz Ahmad

..... Opposite Parties

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**CORAM**

**HON'BLE MR. JUSTICE RAJESH SHANKAR**

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For the Petitioner:

Mr. Rishav Kumar

For the State:

Mr. N. K. Ganjhu, A.P.P

For O.P.No.2:

Mr. A. K. Chaturvedi

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10/03.09.2024      The petitioner apprehending his arrest in connection with the case registered under Sections 406/420/467/468/120B/34 IPC has prayed for grant of anticipatory bail.

2.      Learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case and has not committed any offence as alleged in the F.I.R. As per the allegation, a consortium agreement was executed between the petitioner and the informant/the O.P.No.2 on 28.02.2022 for operating "Daya Hospital & Research Centre" and a pharmaceutical shop, namely, "Daya Pharma", both situated at Jamshedpur. Thereafter, the petitioner started paying Rs.1-1.5 Lac per month as a share of the gross revenue received from the customers/patients to the O.P.No.2, however, as per the informant's vast experience of running the said business, the monthly share of the gross revenue should have been Rs.3 Lac. On being asked by the informant to show the accounts, the petitioner told him that the said establishment was running in loss. However, the informant came to know from his sources that the said establishment was earning profit and the petitioner was keeping the profit amount with himself. It is further alleged that the petitioner was getting the earnings transferred to his bank account as well as to the bank account of his wife. He was directly receiving money from the customers/patients through his

own Paytm QR code without mentioning the same in the accounts book and thus he misappropriated an amount of Rs.58,94,795/-.

3. It is further submitted that the present FIR has been lodged only with a motive to recover the amount which is said to be due with the petitioner. Even if the entire story made out in the written report of the informant is taken to be true, the same gives rise to civil consequence i.e. for recovery of due amount, however, the same has been given colour of a criminal case.

4. It is further submitted that in paragraph 5 of the consortium agreement dated 28.02.2022 executed between the petitioner and the informant, it has been stipulated that unless a higher percentage is agreed in a separate agreement, the second party i.e. the petitioner acknowledges and agrees that he will only be liable to pay 30% of gross revenue received from the customers/patients to the first party (the O.P.No.2), which shall be exclusive of GST (in a case where GST is applicable). The petitioner used to pay 30% of the gross revenue received from the customers/patients i.e. Rs.1-1.5 Lac per month whereas according to the informant, the petitioner was required to pay about Rs.3 Lac per month which was equivalent to 30% of the gross revenue. If according to the informant, the petitioner had violated any term and condition of the said agreement, there was already a stipulation at paragraph 10 of the same that in such a situation, he would take recourse of mediation/arbitration, however, instead of taking the said recourse, the informant maliciously instituted the present FIR. The petitioner however undertakes to cooperate in the ongoing investigation. Hence, he may be given the privilege of anticipatory bail.

5. Learned counsel for the O.P.No.2 while opposing the petitioner's prayer for anticipatory bail, submits that he has committed fraud with the O.P.No.2. As per the audit report of the accounts of "Daya Hospital & Research Centre", Jamshedpur, it also surfaced that he was receiving the amounts deposited by the customers/patients in his bank account using his own Paytm QR code. He

was also found committing various irregularities in maintaining the accounts of the said hospital & research centre.

6. Having heard learned counsel for the parties and considering the materials available on record, I am inclined to enlarge the petitioner on anticipatory bail. Accordingly, the above named petitioner is directed to surrender before the concerned Court below within a period of three weeks. If he surrenders before the Court below within the aforesaid period, he shall be released on bail on furnishing bail-bond of Rs.20,000/- (twenty thousand only) with two sureties of the like amount each to the satisfaction of the Judicial Magistrate, 1<sup>st</sup> Class, Jamshedpur in connection with Mango (Olidih) P.S. Case No. 354/2023, subject to the conditions as laid down under Section 438(2) Cr.P.C.

Satish/-

(RAJESH SHANKAR, J)