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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.194 OF 2015

Haji Shaukatali Suleman Tharadara and Ors.	...	Applicants
V/s.		
The State of Maharashtra	...	Respondent

Mr.S.R.Gaud, for the Applicants.

Ms.A.T.Javeri, APP for the Respondent – State.

CORAM : REVATI MOHITE DERE, J.
DATED : 23rd FEBRUARY, 2015.

PC.

1. Heard learned counsel for the Applicants and learned APP for the Respondent - State.

2. By this Application, the Applicants seek pre-arrest bail, in connection with C.R. No. 21 of 2015, registered with the Nagpada Police Station, Mumbai, for the alleged offences punishable under Sections 406 r/w 34 of the Indian Penal Code.

3. The applicants are the directors of a Limited Company running in the name and style as “M/s.Raj Oil Mills Limited” which is duly

registered under the Companies Act having its registered office at Nagpada, Mumbai. The Applicant no.1 is the Chairman and Managing Director ; Applicant no.2 is the Director (Finance) ; Applicant no.3 is the Director (Administration and Human Resource) and Applicant no.4 is the Director (Marketing) of the said Company. It is alleged by the complainant – Manvendra S. Gokhale, who was an employee of the said Company working as a CEO, that as the applicants had failed to pay the T.D.S. and Provident Fund amount as required, the applicants had committed an offence of criminal breach of trust.

4. Learned Counsel for the applicants states that as far as the Provident Fund amount of Rs.12,00,000/- is concerned, the same has already been deposited by the Company with the Provident Fund Commissioner. He submits that as far as the T.D.S. amount of Rs.17,30,000/- is concerned, the appropriate authorities are competent to initiate action against the Directors and the Company. He submits that the said amounts were not paid, by the Company, as it was declared as a Sick company, and had gone in BIFR.

5. Learned APP opposed the present bail application.

6. Perused the complaint. Under Section 14B of the Employees Provident Fund Act, the Provident Fund Commissioner is competent to recover from the employer by way of penalty such damages, not exceeding the amount of arrears, as may be specified in the Scheme. According to the learned Counsel for the applicants, the provident fund amount of Rs.12,00,000/- has already been deposited with the Provident Fund Commissioner. Admittedly, the TDS amount was to be deposited directly by the Company and has not been deposited. As far as the T.D.S. amount of Rs.17,30,000/- is concerned, which is not deposited by the applicants company, the concerned authorities are competent to initiate appropriate action, in accordance with law. Considering the peculiar facts of the case, the custodial interrogation of the applicants is not necessary and the applicants deserve to be granted pre-arrest bail on the following terms and conditions :

ORDER

- i) In the event of arrest, the Applicants be enlarged on bail on furnishing P.R.Bond in the sum of Rs.15,000/- each, with one or two solvent sureties in the like amount ;
- ii) The Applicants shall attend the Nagpada Police Station, Mumbai, as and when required, by the Investigating Officer.

7. The Application is allowed and disposed of in above terms.
8. Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)