Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 301 OF 2015

Shankar Malappa Sanake ... Applicant
Vs.
The State of Maharashtra ... Respondent

Mr. V.V. Purwant, Advocate for the Applicant.
Mr. S.S. Pednekar, APP for Respondent – State .

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE : **JUNE 10, 2015**

P.C.:

The applicant has moved this Application for pre-arrest bail under section 438 of the Criminal Procedure Code, as he apprehends arrest in C.R. No. 173 of 2014 registered at Market Yard Police Station for the offences punishable under sections 408, 420, 467, 468, 507 of the Indian Penal Code.

2. One Ishwar Motilal Nahar, who was employer of the applicant/accused, has given a complaint on 26th December, 2014 that though he used to give money to the applicant to deposit it in the account of his shop, the applicant deposited it in his personal account instead of depositing in the account of the shop and hence committed fraud and misappropriated total amount of Rs. 45,00,000/-.

3. The learned counsel for the applicant/accused has submitted that that applicant is innocent. The complaint is lodged on 26th December, 2014, however, prior to that, in the month of November, the complainant and his son pressurized the applicant and forcibly they made him to part with his property without any consideration. He submitted that the value of flat and car was more than Rs.40,00,000/- and now he does not owe any amount to the complainant, as the entire amount is satisfied. The learned counsel submitted that the applicant/accused has believed the complainant and therefore, he has transferred the said flat and land, thus the applicant himself is cheated by the complainant. The learned counsel submitted that it is a false case and therefore, he is to be granted pre-arrest bail.

4. Learned APP opposed this Application. He relied on the statement of the complainant and his son. He submitted that the applicant/accused sold the flat, for which an amount of Rs.22,84,000/- was paid to him and the said land was purchased for Rs.3,25,000/- by registered sale deed. He submitted that there is misappropriation of Rs.45,00,000/- by the applicant/accused. The learned APP gave details of the counter foils and bank entries in the account of the applicant/accused. He submitted that the applicant/accused was drawing salary of Rs.10,000/- p.m. from the employer. However, he has deposited huge amounts in his account from

time to time.

5. Perused the FIR and the record. The record shows that the flat and land was purchased by Ishwar Nahar from the applicant. The entries in the account of applicant clearly shows that he has deposited huge amounts like 3 lakhs, 1 lakhs, 50,000/- within a short span at a time. So, from where the money has come is to be answered. *Prima facie* it is a case of fraud and if at all any other amount is required to be adjusted out of any other transaction, that is a matter of investigation by the police. Hence, it is not a fit case to grant pre-arrest bail. The Application for pre-arrest bail is rejected.

6. At this stage, the learned counsel for the applicant orally prays to stay the operation of this order for some time, as he wants to challenge this order before the Hon'ble Supreme Court. Hence, the operation of this order is stayed for a period of two weeks from today.

(MRS.MRIDULA BHATKAR, J.)