Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 551 OF 2015

Nitin Suresh Patil ... Applicant
Vs.
The State of Maharashtra ... Respondent

Mr. Abhijeet A. Desai, Advocate for the Applicant.
Ms. Veera Shinde, 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. 26 of 2014 registered at Chatursrungi Police Station on 21st January, 2014 for the offences punishable under sections 420, 406 of the Indian Penal Code.

2. It is the case of the prosecution that one Ramchandra Bhinde, Assistant Manager of State Bank of India, Deccan Branch gave a complaint that on 1st November, 2013 they received a cheque no. 51798 for an amount of Rs.9,97,535/- of State Bank of India, Industrial Finance Branch, Wakadewadi from I.D.B.I. Bank, Avir (East) for clearance. One MRC Logistics India Ltd. was drawee and it was issued in favour of Youth Welfare Association, of which the applicant/accused is a founder trustee.

The cheque was cleared on the same day and the payment was made to I.D.B.I. Bank. However, on 6th November, 2013, complaint was received from MRC Logistics India Ltd. that the cheque bearing no. 51798 was not issued by them and it is in their possession and that the amount which was withdrawn from the account is due to fraud. The bank officials checked the position and after verification, found that the bank was cheated for an amount of Rs.9.97,535/- and so the complaint was lodged.

3. The learned counsel for the applicant/accused has submitted that the applicant/accused is a founder of Youth Welfare Association, which is running for noble cause of the construction of big statue of Dr. Babasaheb Ambedkar and he is also involved in noble activities having very good credentials and for that purpose, the payment was given by MRC Logistics Company Ltd. The applicant is innocent. It is further submitted that the cheque was cleared on 1st November, 2013 and the complaint was given on 6th November, 2013 by MRC Logistics Co. to the bank. He submitted that MRC Logistics Co. Ltd. is not the complainant who is really aggrieved party. The learned counsel further submitted that there is delay in lodging FIR by the bank, i.e., on 21st January, 2014. The applicant is innocent and he is entitled to get protection under 438 of Cr. P.C.

4. Learned APP relied on the FIR and statement of witnesses

especially the statements of Arvind, Arya and Rajpal, who are owners of MRC Logistics Co. Ltd. She submitted that the custody of applicant is required to find out how that cheque is created.

5. Perused the FIR and the statement of the witnesses especially statement of Arvind. He has stated that the cheque is with the company and it was never issued. Thus, it appears *prima facie* that duplicate cheque of the same number was presented in the bank and it was so alike that the bank personnel did not have any doubt and the cheque was cleared. Under such circumstances, considering the fraud played and the documents used to get the money, custodial interrogation of the applicant/accused is essential. Hence, it is not a fit case to grant pre-arrest bail. The Application for anticipatory 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.)