

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.569 OF 2015

Shri Tushar Dattatrya Gaikwad

... Applicant

Vs.

The State of Maharashtra

... Respondent

Mr.S.J. Rairkar for the Applicant

Ms.Veera Shinde, APP, for Respondent – State

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **JUNE 12, 2015**

P.C.:

1. The applicant/accused has moved this application for anticipatory bail. It is the case of the complainant Jayprakash R. Prabhakar Agawane that the Power of Attorney holder of the owner of the land and he entered into an agreement with the present applicant/accused for sale of that land for Rs.1,05,00,000/- and out of that, towards earnest money, an amount of Rs.15 lacs was paid by the applicant/accused to the complainant and it was agreed between the parties that as the permission of the Collector is required for transfer of the land, after obtaining such permission, conveyance deed would be executed. However, no such permission was given by the Collector and therefore, the applicant/accused started demanding money from the complainant. However, the complainant refused to give that money back and insisted to complete the transaction.

Thus, there was property dispute between the complainant and the applicant/accused. It is the case of the complainant that on 21.11.2014, in the afternoon, four persons who are the co-accused, arrived at his shop. One of the co-accused Ambadas Pawar told him that the applicant has hired them to recover money of 18 lacs from him. At that time, the complainant resisted. However, Ambadas Pawar spoke with the applicant/accused on speaker from his cell phone and at the relevant time, the applicant told him that he should recover money from the complainant. At that time, those persons gave threats to him and forcibly took away Rs.25,000/-. Hence, he gave the complaint.

2. The learned Counsel for the applicant/accused has submitted that earlier, the applicant/accused has given the complaint against the complainant of cheating which was registered at Baramati police station at C.R. No.277 of 2013 and the present case is registered at C.R. No.591 of 2014 at Baramati police station, subsequently as a counter blast of the first case. He further submitted that money is actually not taken by the applicant/accused and, therefore, he be released on anticipatory bail.

3. Learned Prosecutor has opposed the application. She submitted that the money of Rs.25,000/- is not yet recovered. One accused is absconding and three accused were arrested. She submitted that the goons were sent at the instance of the applicant/accused.

4. Perused the FIR. It shows that the applicant/accused has paid Rs.15 lacs to the complainant which is not disputed. It is necessary for the applicant/accused to take out civil proceedings. It appears that he has asked other persons to recover money. Considering the contents in the FIR, pre-arrest bail is granted on the following terms and conditions:

- i) In the event of arrest, the applicant/accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.30,000/-, with one or two sureties in the like amount;
- ii) The applicant shall not tamper with the evidence;
- iii) The applicant shall not indulge into any criminal activity especially of giving threats and recovery of money either forcibly or illegally, while on bail;
- iv) The applicant shall cooperate with the Investigating Officer and attend the concerned police station on every Wednesday between 10 am to 11am, for a period of one month from today.

5. Anticipatory Bail Application is disposed of accordingly.

(MRS.MRIDULA BHATKAR, J.)