

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.616 OF 2015

Rajendra Bulan Yadav ... Applicant

Vs.

The State of Maharashtra ... Respondent

Mr.Subodh Desai for the Applicant
Mr.Arfa Sait, APP, for Respondent – State
Mr.Saurabh Butala for org. complainant
Mr.Rajesh Devare, Sr.p.I., Nhava Seva police station – present

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

DATE: **JUNE 16, 2015**

P.C.:

1. The application for pre-arrest bail is moved as the applicant/accused, who is working as a Project Manager with a Developer, apprehends arrest under section 420 in C.R. No.43 of 2015 registered with Nhava Sheva police station, Navi Mumbai, for the offences punishable under sections 420, 406, 504 and 506 of the Indian Penal Code on 18.4.2015. It is the case of the prosecution that the applicant/accused has engaged the complainant as a contractor on the construction site. The complainant did most of the work and he demanded his money as agreed to between the parties. However, the applicant/accused refused to pay him his due amount of Rs.16 lacs and when he insisted for the same, he was arrogant and not allowed to enter

the site. It is the case of the prosecution that the equipments and the machines which are used for the purpose of construction of the building were lying on the site as the complainant was not allowed to collect those equipments and take away. So also, the said equipments were used by the applicant/accused by engaging some other contractor.

2. The learned Counsel for the applicant/accused submitted that all the equipments are already seized by the police from the site and now nothing is in the custody of the applicant. The learned Counsel further submitted that as per the expert's opinion, only 42% work is completed and remaining work though it was agreed and ought to have been completed by December, 2014, it is not done. He further submitted that there were many meetings between the parties and not only the entire payment but an excess of Rs.49 lacs was paid by the Developer and the company of the applicant/accused and no dues can be claimed by the complainant. He submitted that no custody is required for investigation.

3. Learned Prosecutor has opposed the application. It is submitted that the offence is under sections 420 and 406 of the Indian Penal Code. The money of Rs.16 lacs, as agreed, as per the complaint, is not paid to him.

4. Perused the FIR and the documents. From the allegations made and considering the submissions made by the learned Counsel for the applicant/accused, it appears *prima facie* a case of civil nature. If the money is due, it is to be recovered in the civil Court. The police have already seized all the material. In view of this, custodial interrogation of the application is not required.

5. Accordingly, the Anticipatory Bail Application is allowed on the following terms:

- i) In the event of arrest, the applicant/accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.20,000/-, 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 kind of offence while on bail;
- iv) The applicant shall cooperate with the Investigating Officer and attend the concerned police station on 22nd June, 2015 and 29th June, 2015 and 6th July, 2015 between 5pm to 6pm.

(MRS.MRIDULA BHATKAR, J.)