

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 981 OF 2015

1	Milan Ganpat Bhosale.	
2	Jude Joseph Misquita.	... Applicants.
	Versus	
	The State of Maharashtra.	... Respondent.

Mr. Balkrishna Joshi i/b. Mr. Virendra V. Pethe, advocate for Applicants.

Ms. S.S. Kaushik, APP for State.

Mr. Vijay Khandagale, PSI, Andheri Police Station.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : AUGUST 4, 2015

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State. Perused papers.

2 This is an application under Section 438 of the Code of Criminal Procedure, 1973. The applicants herein are apprehending their arrest in Crime No. 184 of 2015 registered at Andheri Police Station for

offence punishable under Section 420 read with Section 34 of the Indian Penal Code.

3 It is the case of the prosecution that on 7/4/2015 Vishal Chandra lodged a report at the police station alleging therein that he is the proprietor of Daksha Bio Power Private Limited. He is also involved in Real Estate business. For promoting the said business, he needed funds and therefore, he contacted Dr. Limbaji Rathod and informed him that he needs finance of Rs. 50 Crores. Dr. Limbaji Rathod introduced him to the present applicant No. 1. The complainant was made to understand that the present applicant No. 1 happens to be an advisor to Reserve Bank of India and that he would arrange for the funds. It is alleged that the present applicant No.1 had informed the complainant that he takes the consultation work only if the project is above Rs. 250 Crores. Therefore, the complainant had made a project of Rs. 280 Crores. It was decided that commission of Rs. 2 Crores 80 Thousand would be given to the applicant No. 1, in the eventuality that the loan is sanctioned and

disbursed. There was a meeting between all the concerned. It is alleged that the present applicant No. 1 had introduced one Suresh Varma who would arrange for the funds. That the applicant No. 1 is alleged to have demanded Rs. 2,06,100/-. The complainant had parted with the amount in favour of Suresh Varma on 7/9/2012. According to the complainant, the loan was neither sanctioned and therefore, not disbursed. Suresh Varma had received the amount from time to time. However, he had not made any arrangement. That the complainant had persuaded Suresh Varma and the present applicants from time to time. He was receiving evasive answers and therefore, he had realised that he has been cheated and he had lodged report on the basis of which Crime No. 184 of 2015 is registered.

4 The complainant has signed a memorandum of understanding with the principal accused Suresh Varma, who was the beneficiary. Suresh Varma was arrested and enlarged on bail. The learned APP submits that the present applicant No. 1 is a witness to the

memorandum of understanding signed between the complainant and Suresh Varma. Prima facie, there is nothing to indicate that the present applicants have received any amount from the complainant. However, the disputed question is whether the applicant No. 1 has posed himself as a consultant of the Reserve Bank of India. That is a matter of investigation, which can be done independently without custodial interrogation of the applicant. No specific role is attributed to the applicant No. 2. Hence, this Court is of the opinion that the custodial interrogation of the applicants is not imperative.

5 This Court had noticed on the last date that the statement of Dr. Limbaji Rathod was not recorded by the Investigating officer. Thereafter, on 24/7/2015 statement of Dr. Limbaji Rathod is recorded and he has admitted that he had introduced the present applicant No. 1 with the complainant. However, there is nothing to indicate that the applicant No. 1 was introduced as a consultant of the R.B.I.

6 In the circumstances, the applicants deserve grant of pre-arrest
bail.

7 It is made clear that the observations made hereinabove are
restricted to an application under Section 438 of the Code of Criminal
Procedure, 1973. The same shall not be considered while deciding
the application for discharge or for quashing of FIR or at the time
trial. The learned Trial Court shall decide the matter uninfluenced by
the above said observations and arrive at a conclusion only on the
basis of the substantive evidence adduced by the prosecution at the
time of trial.

8 Hence, following order is passed:

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest, the applicants be enlarged on bail on
furnishing P.R. Bond in the sum of Rs. 25,000/- each and one or two
sureties in the like amount.

(iii) The applicants shall report to the concerned police station as and when called and cooperate with the investigating agency to the best of their capacity.

9 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)