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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1068 OF 2015

Shaikh Ayyub Shaikh Gafoor and Another ... Applicants
vs.
The State of Maharashtra ... Respondent

Mr. Javed Shaikh, for the Applicants.
Mr. Arfan Sait, APP for the Respondent-State.
IO. Mr. Siddharth Ingale (PSI), Azad Nagar police station, Nashik present.

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

DATE: **AUGUST 11, 2015**

P.C.:

. The application is moved for pre-arrest bail as the applicants/accused are apprehending arrest for the offences punishable under Sections 420, 468 and 471 of the Indian Penal Code and under Section 66(d) of the Information Technology Act in C.R. No. I-11 of 2015 registered with Azad Nagar police station, Malegaon, Dist. Nashik at the instance of one Tausif Anjum Habibur on 15th March, 2015.

2. It is the case of the prosecution that the complainant along with his relatives wanted to go at pilgrim Makka-Madina at Saudi Arabia. So he contacted the applicant/accused No. 1 Shaikh Ayyub who assured that he will make the arrangement of the travel through one company by name "*Acqua Tours and Travels*" owned by his relative Mujahid Ali. On 5th May, 2014 applicant/accused No. 1 therefore collected the passports of the complainant and his family members. The applicants/accused demanded Rs. 3,10,000/- and accordingly the complainant handed over their passports and Rs. 3,10,000/- to the applicants/accused. The complainant also deposited Rs. 60,000/- in the bank account numbers of the applicants as demanded by them for the purpose of travel. After 3-4 days, applicant/accused No. 2 who is the son of applicant/accused No. 1 contacted the complainant at Malegaon and he handed over six air tickets from Mumbai to Jedadah and Jedadah to Mumbai of six persons dated 25th June, 2014 and 1st August, 2014 respectively. He also assured them that they would get passport and other documents at the time of travel at Umrali. Then, the complainant though contacted the applicants/accused for visa and passport, there was no response and evasive answers were given to him. Therefore, the

complainant verified the air tickets in the office of Air India at Mumbai and he found that those air tickets were bogus. He thereafter picked up their passports and other documents from the office of Azij Travels, Mumbai. Thereafter, the complainant contacted the applicants along with some person of their community and demanded back the total amount of Rs. 3,70,000/-. The applicant/ accused No. 1 admitted the same however he did not return the said amount.

3. The learned counsel for the applicants/accused has submitted that, the applicants/accused are innocent. Both the applicants/accused have not committed any offence. Their custodial interrogation is not required. He submitted that Mujahid Ali Haidar is the principal accused who runs the agency by named "*Acqua Tours and Travels*" and the transaction was between the complainant and the principal accused. The applicants/accused are innocent and they did not prepared these forged air tickets. They are not the beneficiary of any amount and hence, they are to be protected by pre arrest bail.

4. The learned prosecutor opposed the pre arrest bail. He submitted that the learned Additional Sessions Judge, Malegaon vide

his order dated 20th July, 2015 rejected the application for pre arrest bail. He submitted that the learned Judge while rejecting the application has directed the applicants/accused to deposit the amount of Rs. 3,50,000/- but there is no compliance of the said order. The custody of the applicants/accused is required to find out from where the air tickets were procured. Hence, the application be rejected.

5. Perused the first information report and the order passed by the learned Sessions Judge. In the first information report, the complainant has specifically mentioned that applicant/accused No. 1 assured him that he would make arrangement for the travel and the complainant handed over money to him. The applicant/accused No. 2 has contacted the complainant and his family members and handed over six air tickets to the complainant which were turned out to be fake tickets. As per the first information report, the complainant and his family members have paid the amount of Rs. 3,70,000/- to the applicants/accused on the promise of travel from Mumbai to Jeddah and return journey. Considering the charges levelled against the applicants/accused, I am of the view that the custodial interrogation of the applicants/accused is required.

6. Hence, the application for pre arrest bail stands rejected.

7. The learned counsel for the applicants/accused wants to seek protection from the Hon'ble Supreme Court. Therefore, the interim protection granted earlier to the applicants/accused to continue till 31st August, 2015.

(MRS.MRIDULA BHATKAR, J.)