

IN THE HIGH COURT OF JUDICATURE, AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1385 OF 2015

Shri Ganesh Balasaheb Garud & Anr.	...	Applicants
Vs.		
The State of Maharashtra & Anr.	...	Respondents

Mr. V B Tapkir, Adv. for applicant.
J H Ramugade, APP for State.
Mr. Priyal G Sarda, Adv. for respondent No.2.

CORAM : SMT ANUJA PRABHUDESSAI, J.
DATE : 30th November, 2015.

P.C. :

1. This is an application for anticipatory bail filed by the aforesaid applicants apprehending their arrest in Crime No.3 of 2015 registered at Rajgad Police Station, Pune Rural for the offences punishable under Sections 420, 379, 496, 504, 506 r/w.34 of IPC.

2. Heard the learned counsel Mr. Tapkir for the applicant and the learned APP for the State and the learned counsel Mr. Priyal Sarda for the respondent No.2. I have perused the FIR and considered the submissions advanced by the learned counsel for the respective parties.

3. The records prima facie reveal that the father of the applicant had purchased two tempos. The father of the applicant and the respondent No.2 company had entered in to an agreement dated 14th March, 2013 wherein they had agreed that the respondent No.2 would install refrigerator and refrigeration units and would use the

tempo for ice cream delivery and share 50% of the profit. The business was being conducted in accordance with the said agreement till the death of the father of applicant i.e. on 12th March, 2015.

4. There appears to have been dispute between the parties over the financial transaction which led to the applicant taking away both the tempos even though the validity of the agreement was till 21st September, 2019. As a result thereof, the complainant lodged a complaint alleging that the applicants herein had committed breach of the agreement and had committed the theft of the said trucks as well as their refrigerator and refrigeration unit. Since the police did not register the FIR, the complainant filed a complaint before the JMFC, Bhor. The learned JMFC by an order dated 5th June, 2015 under Section 156 (3) of Cr.P.C sent complaint for police investigation. Accordingly the C R No.3 of 2015 came to be registered against the accused for the above said offences.

5. It is pertinent to note that the sister of the accused has also lodged a complaint R C C No.2008 of 2015 against the respondent No.2 alleging that the complainant had cheated her father. She had further alleged subsequent to the death of her father, the complainant refused to disclose the accounts of the financial transactions and to share the profit. By order dated 3rd August, 2015, under Section 156 (3) Cr P C, the learned Magistrate has directed the police to investigate the said crime.

6. A perusal of the complaint lodged by the respondent No.2 as well as the complaint lodged by the sister of the applicants herein,

prima facie reveals that the dispute which centres around to agreement dated 22nd February, 2013 is essentially of civil nature. The nature of the dispute, in my considered view does not justify custodial interrogation. The applicants are the permanent residents of village Gosavi Vasti, Vadgaon, Pune and there are no chances of his absconding or fleeing away from justice.

7. Under the circumstances and in view of the discussion supra, the application is allowed on following terms:

1. In the event of arrest of the applicants in Crime No.3 of 2015 registered at Rajgad Police Station, Pune Rural, the applicants shall be released on bail bond of Rs.15,000/(Rupees Fifteen Thousand Only) each with one or two sureties in the like amount to the satisfaction of the learned Judicial Magistrate, First Class, Bhore, Pune.
2. The applicants shall report to the investigating officer for 7 days and further as and when required by the investigating officer for the purpose of the interrogation.
3. The applicants shall not tamper with the evidence or influence complainant and witnesses in any manner.
4. The applicants shall not leave Bhore, Pune without prior permission of JMFC, Bhore.

(ANUJA PRABHUDESSAI, J.)