

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1727 OF 2015

Mayur Nageshbhai Sonawane ..Applicant

v/s.

Union Territory of Dadra & Nagar Havli ..Respondent

Mr. Sujit Pathak for the Applicant
Mrs.PH.Kantharia, Spl.PP a/w. Mrs. Veera Shinde APP for the
Respondent-State.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : DECEMBER 01, 2015.**

P.C.

1. This is an application for anticipatory bail filed by the applicant apprehending his arrest in Crime No.12 of 2015 registered with Silvassa Police Station, Dadra and Nagar Haveli, for the offence punishable under Section 406, 420 r/w. 34 of the Indian Penal Code.

2. Heard Shri Pathak, the learned counsel for the applicant. He submitted that the applicant herein and the first informant-

complainant had entered into an MOU dated 7.7.2014 whereby the applicant had ensured to get the business of Data Entry Work to the first informant-complainant. He has submitted that as per the said agreement, the first informant-complainant was to pay the consultation fees of Rs.3 lakhs which were non-refundable. In accordance with the said agreement, the applicant provided a project and the first informant-complainant entered into an agreement with Nakshatra BPO for General Insurance Data Entry. He submitted that under the agreement, the applicant is not liable to pay any dues payable by Nakshatra BPO to the first informant. He has submitted that the applicant herein cannot be held liable for the breach of contract committed by B. Chandrashekhar, and that the amount payable by B. Chandrashekhar cannot be recovered from him by resorting to the criminal proceedings.

3. Mrs. Kantharia, the learned APP has submitted that the applicant herein was responsible in introducing B. Chandrashekhar to the first informant-complainant. She has further stated that the said B. Chandrashekhar is liable to pay the first informant-complainant

an amount of Rs.19 lakhs and that said B. Chandrashekhar has paid only an amount of Rs.1,20,000/- out of the said amount. She has submitted that said B. Chandrashekhar is absconding and that the investigation prima facie reveals that a large amount from the account of the applicant herein is transferred in the account of said B. Chandrashekhar. She has stated that this fact reveals that there was connivance between the applicant and the said B. Chandrashekhar in committing the offence of cheating and mis-appropriation. She therefore submits that custodial interrogation of the applicant is required to unearth the conspiracy.

4. I have perused the records and considered the submissions advanced by the learned Counsel for the applicant and the learned APP for the State.

5. The C.R.No. 12 of 2015 has been registered on the basis of the FIR lodged by Ajitsinh Natwarsinh Parmar. The FIR prima facie reveals that one Shri Chandrashekhar Patil had introduced the first informant-complainant to the applicant herein, and told him that the

applicant could help him in expanding his business. The complainant met the applicant as agreed and consented to the proposal given by the applicant. Accordingly, the first informant-complainant and the applicant entered into an MOU dated 7.7.2014 whereunder the applicant herein had ensured that the first informant-complainant would get the business of data entry work. In terms of the said agreement, the First Informant-complainant had paid to the applicant an amount of Rs.3 lakhs which amount as per the MOU was non refundable. Acting upon the said MOU the applicant introduced the first informant to B. Chandrashekhar, the Director of Nakshatra Business Process Outsourcing (BPO). The first informant-complainant and Nakshatra BPO entered into an agreement dt. 12.9.2014 whereunder Nakshatra BPO agreed to outsource General Information Data Form filling to the applicant and the applicant agreed to carry out General Information form filling of image format data to the provided software in the given format. All the other terms and conditions were also recorded in the said agreement.

6. The allegations made in the FIR reveal that the first informant-complainant had completed the work given to him by Nakshatra BPO and had placed total bill of Rs.19 lakhs which was due and payable by Nakshatra BPO. The first informant-complainant has alleged that out of total amount of Rs.19 lakhs Nakshatra BPO had paid an amount of Rs.1,20,000/- and an amount of Rs.17,80,000/- was due and payable by Nakshatra BPO. The allegations in the FIR further reveal that said B. Chandrashekhar, the Director of Nakshatra BPO, had not paid the said amount due to the first informant. The FIR also states that the said Nakshatra BPO through its Director B. Chandrashekhar had given also same work to other persons. The first informant-complainant has alleged that the applicant in collusion with the said company has cheated him and others.

7. A perusal of the MOU entered between the applicant and the first informant-complainant prima facie does not indicate that the applicant herein was responsible to pay the dues payable by said B. Chandrashekhar. A perusal of the agreement dated 12.9.2014 also reveals that applicant herein was not a party to the said agreement.

The said agreement was between the first informant-complainant and B. Chandrashekhar as Director of Nakshatra BPO. Under the said agreement, Nakshatra BPO was liable to honour the invoice raised by the applicant. The said agreement does not indicate that in the event of breach of the said clause by the Nakshatra BPO, the applicant was liable to honour the invoice raised by the first informant-complainant. Under the circumstances, prima facie there is no material to show the involvement of the applicant in offence punishable under Section 406, 420 of IPC. The nature of allegations do not justify the custodial interrogation. Furthermore, the applicant cannot be declined bail solely on the ground that B. Chandrashekhar is absconding.

8. In the light of the above facts and circumstances, the anticipatory bail application is allowed on the following terms:

- i) In the event of arrest of the applicant in Crime No.12 of 2015 of Silvassa Police Station, Dadra & Nagar Haveli, the applicant be released on bail on furnishing bail bond of Rs.25,000/- (Rupees

Twentyfive Thousand Only) with one solvent surety in the like amount to the satisfaction of the learned JMFC, Silvassa.

ii) The applicant shall report to the Investigating Officer initially for a period of seven days from 2.12.2015 from 10 a.m. to 2.00 p.m. and thereafter as when required by the Investigating Officer for the purpose of investigation and interrogation.

iii) The applicant shall furnish his local address as well as permanent address, if any, to the Investigating Officer.

iv) The applicant shall not leave the country without the prior permission of the learned JMFC, Silvassa, till the filing of the chargesheet.

. Parties to act on the authenticated copy of this order.

(ANUJA PRABHUDESSAI, J.)