IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.59 OF 2016

Poonamchand Gulabchandji Jain & Ors. ... Applicants

Vs.

The State of Maharashtra & anr. ... Respondents

Mr.A.J. Kenjale for the Applicants
Ms.Alpa Javeri, APP, for Respondent – State
Mr.Ganesh S. Vaidya for Resp. No.2
Mr.A.D. Mane, PSI, Rabale MIDC Police Station – present

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

DATE: **APRIL 22, 2016**

P.C.:

1. This application is for pre-arrest bail as the applicants-accused are facing charges under section 420, 465, 468, 471 of the Indian Penal Code in C.R. No.I-30 of 2013 on 1.6.2013 at the instance of one Govindram G. Meghwal. It is the case of the prosecution that the complainant was one of the partners of one M/s.Shri Krishna Plastic in 1999. It started with three partners, however, two partners withdrew from the firm. Thereafter in 2006, some partners were included. However, in 2007, four partners out of 5 decided to sell their shares and quit the firm. It is the case of the complainant that he was holding 25% share in the firm. In 2007, the applicants-accused approached the complainant and showed willingness to purchase 75% share in the firm. Thereafter, they purchased 75% of the

shares, however, the complainant was holding 25% shares. The complainant being illiterate, the applicants/accused used to obtain signatures of the complainant on the blank papers. The entire administration, preparation of the wills, agreements, was done by the Akshay Jain, one of the applicants/accused. The applicants/accused misused the property of the firm and they did not treat him as a partner of the firm. They assured him that they would be looking after the entire business. It is a case of the complainant that they misappropriated amounts in his bank account at Union Bank of India and in the year 2012, when he wanted money for the marriage of his daughter, they told him that he is working as a commission agent and offered him only Rs.160,000/-. He realised that the applicants have taken the advantage of his illiteracy and have cheated him as they have taken over the entire business of the company and asked him to quit the company without any appropriate consideration. It is his case that he prepared a Deed of Assignment which is bogus as the contents in the said Deed are not agreeable to him.

2. The learned Counsel for the Applicants have stated that in the year 2007, they have purchased the plot and the building where the business of the company is being run. They paid an approximate amount of Rs.33 lacs to the complainant. He relied on the said document. He submitted that the complainant was in fact working as a commission agent. The applicants/accused have cooperated with the police and are ready to

further cooperate and hence, the pre-arrest bail granted earlier be confirmed.

3. Learned Prosecutor and the learned Counsel for the complainant have opposed the application. The counsel for the complainant has submitted that the applicants-accused have cheated the complainant by taking away his 25% of share in the business of partnership firm though the said share was never either sold or handed over by the complainant to the applicants/accused. The applicants/accused have misused his PAN card and misappropriated the money in his account in the name of the partnership firm and have misappropriated the amount of the firm by siphoning the said funds for their new company, namely, M/s.Unomech Engineers Pvt. Ltd.

4. Perused the FIR, the relevant documents filed herewith. It is an offence registered in 2013. The applicants/accused are on interim bail. The police have collected the forged documents i.e., a receipt and the said receipt is sent to the handwriting expert. It appears that the complainant is aggrieved because his 25% share as a partner is denied by the applicants/accused and they have, prima facie, taken over the entire business of the partnership firm forcibly and illegally. However, it is in respect of the accounts and the shares in the partnership and the civil Court is a proper forum for redressal of the grievance of the complainant.

In my view, therefore, custody of the applicant-accused is not required for investigation.

5. Hence, I confirm the pre-arrest bail granted on 15.1.2016 with a direction that the applicant-accused shall attend the concerned police station as and when called and cooperate with the Investigating Officer.

6. Anticipatory Bail Application is disposed of accordingly.

(MRIDULA BHATKAR, J.)