

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 632 OF 2016

Amit Arvind Sand	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

WITH
CRIMINAL APPLICATION NO. 697 OF 2016
IN
ANTICIPATORY BAIL APPLICATION NO. 632 OF 2016

Dharini Devendra Parekh	...	Petitioner
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In the matter between:

Mr. Amit Arvind Sand	..	Applicant
vs.		
The State of Maharashtra	..	Respondent

ALONG WITH
ANTICIPATORY BAIL APPLICATION NO. 721 OF 2016

Mrs. Riddhima Vinit Grover	..	Applicant
vs.		
The State of Maharashtra & Anr.	..	Respondents

ALONG WITH
CRIMINAL APPLICATION NO. 698 OF 2016
IN
ANTICIPATORY BAIL APPLICATION NO. 721 OF 2016

Dharini Devendra Parekh	...	Petitioner
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In the matter between:

Mrs. Riddhima Vinit Grover	..	Applicant
vs.		
The State of Maharashtra	..	Respondent

**ALONG WITH
ANTICIPATORY BAIL APPLICATION NO. 1215 OF 2016**

Sunil Thanaram Mandhan	..	Applicant
vs.		
The State of Maharashtra	..	Respondent

Mr. Amol Deshpande, Advocate for the applicant in ABA No.632/2016.

Mr. Debajyoti Talukdar, Advocate for the applicant in ABA No.721 of 2016 & ABA No.1215 of 2016.

Mr. Ajit Arekar a/w Mr. Sagar Thakkar i/b. Auris Legal for the Intervenor/Applicant in APPP No.697/2016 & APPP No.698 of 2016.

Ms. Veera Shinde, APP, for the State in ABA Nos.632/2016 & 721/2016.

Mr. Y.M.Nakhawa, APP for State in ABA No.1215/2016.

Mr. Laxman Baliram Dhengale, I.O./API, Crime Branch, Pune, present.

CORAM: SMT.SADHANA S.JADHAV,J.

DATE : 1st September, 2016.

P.C.

1. Heard. These are the applications under Section 438 of Cr.P.C.

Pursuant to the order passed by this Court on 4th August, 2016, the learned APP fairly submits that the papers of investigation do not reveal that the police officers had made any efforts to arrest the applicants. In fact, the application of the applicant in Anticipatory Bail Application No.632 of 2016 was rejected by the Addl. Sessions Judge, Pune, on 8.1.2015.

2. It appears from the papers of investigation that on 27.4.2016, he was called by the police officer. His statement is recorded by the P.I. of Anti Decoity Cell, Crime Branch, Pune. The applicant was not arrested. It

appears that his statement was recorded under Section 161 of Cr.P.C. However, the signature of the applicant has been obtained. He has disclosed to the police that Javed Khan had approached him for doing the work of interior decoration in his house and he posed before him that he happens to be the public Prosecutor in the High Court at Bombay and that his wife is an IAS officer and that she is on leave. He had also informed the applicant that his friend Vinit Grover was to recover an amount of Rs. 3 crore to Rs.3.15 crore from his relative Devendra Parekh and that Vinit Grover has been cheated. They met Vinit Grover on 21.6.2014. On that day, in the presence of the applicant, Vinit Grover had demanded the amount and the demand was of Rs.25 lakhs towards commission. It is stated that they had been to the house of Devendra Parekh. At that time Javed Khan was carrying a pistol. On the same day, Devendra Parekh had given a cheque in favour of Vinit , but had asked for an amount of Rs.5 lakhs from Amit Sand as he did not have sufficient amount in his Bank account. It prima facie, appears from the statement that the Investigating Officer desired to side Amit Sand as a witness to the incident.

3. The respective applicants had argued that the incident is dated 2.6.2014. On 7.6.2014, the cheque issued in favour of Vinit Grover was

dishonoured. On 8.6.2014, Devendra Parekh lodged a report to the Deputy Commissioner of Police alleging therein that on 2.6.2014, Mr. Grover, Amit Sand and his friend Javed Khan had been to his house. That they had threatened his wife. His wife had called upon him. Javed Khan had stolen gold ornaments from the cupboard of his wife. That he had obtained signature of Devendra Parekh on blank papers. He also obtained the signature of his wife and thereafter, had forcibly taken the cheque of Rs.25 lakhs from him. That they had stolen an amount of Rs. 3 lakhs. That Amit Sand had demanded an amount of Rs.5 lakhs from them.

4. It is pertinent to note that no action was taken on the basis of the said complaint filed by Devendra parekh. On 5.12.2014, the present intervener had filed an application to PSI of Market Yard Police Station alleging therein about the said incident of 2.6.2014. She had taken care and seen that there is a specific allegation that they had asked the watchman to cover the CCTV. She has also narrated the incident dated 3.6.2014 when Vinit Grover had been to his house and had threatened her in the name of Javed Khan. That he had forced her to see that the cheque is honoured or else she would meet with dire consequences. That she was called before the Cantonment Court. They had also called upon her husband and at that point of time, all the present applicants were present and had threatened her

of dire consequences. It is alleged that Vinit Grover and Amit Sand had brought her ornaments weighing about 18 tolas. That they had threatened her on the point of revolver. It is apparent on the face of the record that the complainant herein is also an accused in Crime No. 152 of 2014 registered at Lashkar Camp Police Station in which Ketan Shah, Devendra Parekh and other family members are accused in the said case.

5. The learned counsel for the applicants as well as the learned counsel representing the intervenors submit that the investigation is not done in accordance with law and that there is no fair investigation and that Ketan Shah is absconding.

6. The learned counsel for intervenors submits that Devendra Parekh was granted pre-arrest bail by the Hon'ble High Court.

7. Taking into consideration the nature of allegations and the manner in which the investigation is being carried out, it appears that there is some dispute between Devendra Parekh and Vinit Grover. The police officers are also acting as recovery agents. The reports are filed by Devendra Parekh and Vinit Grover.

8. It is true that to arrest or not to arrest is the discretion of the investigating officer and for a period of more than one year the accused-

applicants whose pre-arrest bail application was rejected by the Sessions Court, were not arrested and that their statement was recorded by the police after taking them to the police station.

“41. When police may arrest without warrant (1) Any police officer may without an order from a Magistrate and without a warrant, arrest any person -

(b) against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years whether with or without fine, if the following conditions are satisfied namely :-

(ii) the police officer is satisfied that such arrest is necessary -

(a) to prevent such person from committing any further offence; or

(b) for proper investigation of the offence; or

© to prevent such person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; or

(d) to prevent such person from making any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the police officer; or

(e) as unless such person is arrested, his presence in

*the Court whenever required cannot be ensured
and the police officer shall record while making such
arrest, his reasons in writing:”*

Hence, prima facie, it appears that custodial investigation is not imperative in the present case and therefore, the applicants deserve pre-arrest bail.

9. The observations made hereinabove are prima facie in nature and shall not be considered for the purpose of quashing of FIR, discharge application or at the time of trial or at the time of deciding the Writ Petitions pending before the Hon'ble Division Bench

ORDER

- (i) The applications are allowed.
- (ii) In the event of their arrest, the applicants be enlarged on bail on each furnishing P.R. Bond in the sum of Rs.50,000/- with one or two sureties in the like amount.
- (iii) The applicants shall report to the concerned Police Station as and when called.

All the Applications are disposed of.

10. The Intervention Applications are heard, allowed and disposed of.

(SMT.SADHANA S.JADHAV, J.)