

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

ANTICIPATORY BAIL APPLICATION NO. 669 OF 2015

Mr. Ansari Hifzur Rehman Abdul Hamid ... Applicant

vs.

The State of Maharashtra ... Respondent

Mr. Sameer nangre i/by Rajeev Sawant & Asso., Counsel for the applicant.

Ms. S. S. Kaushik, A.P.P. for the State/respondent.

Mr. Mandar Soman, Intervener present.

Coram : N. W. SAMBRE, J.

Date : 25th November, 2016

P.C. :

1. The applicant is seeking pre-arrest bail in Crime No.58 of 2015 for the offence punishable under Sections 406, 420, 506(2) r/w 34 of the Indian Penal Code for an alleged incident from 30th December, 2009 to 1st February, 2014.

2. The applicant and the complainant were having business term as they were the partners in a construction firm. The applicant and the complainant thereafter enumerated business proposal in relation to the construction project, had invested the amount, however, the said business proposal has not

got materialised. It is claimed that the third party to whom the amount was given by the applicant received from the complainant has not returned the same and it is present applicant, who connived with other accused got recovered his money by practicing fraud on the complainant.

3. The bail is also sought on the ground that the differences in the business transactions, the nature of civil dispute between the parties, does not call for the custodial interrogation. It is claimed that the impleading of the applicant at the behest of the complainant is in a contractual matter without any criminal motive.

4. Ms. Kaushik, the learned A.P.P. while opposing the application submits that, there is enough material to submit that there is a prima facie involvement of the applicant in the crime in question and there are criminal antecedents.

5. What could be inferred from the record is that the accused who has brought proposal with the applicant and the complainant has practiced fraud on both and the present applicant. To some extent applicant was able to recover his dues, however, it appears that the complainant was in dark about the same. What could be inferred from the above transaction is that there is existence of civil dispute.

6. Apart from above, if the criminal antecedents against the present applicant are to be considered, the complainant has also been shown to be an accused in one of the crime, which offence came to be registered pursuant to the partnership in a construction firm.

7. In the above referred background, in my opinion, the fact that the complainant's amount was not recovered from other co-accused and the applicant was responsible for the same is an issue, which can be resolved into civil proceedings. As such, the custodial interrogation is not warranted.

8. In view thereof, in the event of arrest the applicant be released on furnishing of P.R. Bond of Rs.30,000/- with one or two sureties in the like amount on the following conditions :

- (i) The applicant shall furnish his mobile phone numbers and permanent place of abode to the Investigating Officer.
- (ii) He shall attend the Investigating Officer on 2nd, 6th and 9th December, 2016 between 10 am. to 12 noon and thereafter as and when called.
- (iii) He shall not tamper the evidence and/or influence the witnesses.

[N. W. SAMBRE, J.]