

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 805 OF 2016

Kunal Ashok Kadam	...	Applicant
Vs.		
The State of Maharashtra & Anr.	...	Respondents

Mr. Sarang Kotwal i/b. Dubey & Co., Advocate for the applicant.
Mrs. G.P. Mulekar, APP for the State.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **4th May, 2016.**

P.C.:

This Application is moved for anticipatory bail, as the applicant/accused is prosecuted for the offences punishable under sections 406, 420, 506 of the Indian Penal Code in C.R. No. 110 of 2016 at Ghatkopar Police Station. The offence is registered at the instance of Forum Suvidha Gosalia on 4th March, 2016.

2. It is the case of the complainant that the complainant and his colleague Mitesh Patel are partners. The complainant entered into joint venture with Mitesh Patel for the construction of building and for that purpose, they want to obtain permission from the various authorities. NA permission was required to be obtained. The applicant/accused was introduced by Ganesh Mishra and the applicant informed that he is very closely acquainted with the Ministers, Chief Minister, Collector and he stated that for obtaining NA permission in the name of partner Mitesh Patel, Rs.12,00,000/- will be required. He told the complainant to pay the

amount in cash. Thereafter on 28th July, 2014, they received notice from S.D.O. for fine of Rs.14 lakhs for excess storage of sand. The applicant/accused told them not to pay the fine because the payment would amount to crime and offence will be registered against them. However, the applicant said that he would solve the matter if bribe of Rs.20 lakhs will be paid to Government officers. The complainant and her partner paid Rs.12 lakhs on 20th November, 2014 and Rs. 8 lakhs on 29th December, 2014. However, thereafter they received a notice from the Collector, Thane on 31st December, 2014 about excess storage of sand. It is the case of the prosecution that father of the applicant/accused also contacted the complainant and told that he would get the things cleared. Thereafter, the applicant/accused gave them one letter of Minister Bacchu Dagdu wherein it was mentioned that the notice of excess storage of sand can be reviewed. It is complainant's case that when she went to Collector officer at Thane, she found that father of the applicant/accused has applied in the name of Ganesh Mishra to obtain property documents. The applicant/accused did not repay their money, however, he threatened them of their lives. The father of the applicant/accused gave in writing that till 1st October, 2015 the amount will be returned, however, till the date of lodging of FIR, no amount was returned. They have video recording of the matter. Thus, from the period from 22nd September, 2014 till 17th April, 2015 they are deceived by an amount of Rs.26,20,000/-.

3. The learned counsel for the applicant/accused has submitted that the applicant/accused is innocent. He has not committed any offence. It was Ganesh Mishra, who has accepted the amount in his name and the applicant/accused is innocent and hence, the applicant be granted pre-arrest bail.

4. Learned APP opposed the Application. She submitted that the police have clip of video recording of the meetings of applicant/accused, complainant and Ganesh Mishra.

5. Perused the FIR. Though there is no amount paid by cheque, the representation was made by the applicant/accused that he wanted to bribe the Government officers and therefore, he accepted the amount by cash. Moreover, father of the applicant/accused has given in writing to the complainant to return the amount. Considering such illegal transaction between the parties, I am not inclined to protect the applicant/accused under section 438 of Cr. P.C. Hence, Anticipatory Bail Application is rejected.

(MRIDULA BHATKAR, J.)