IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.972 OF 2016

Navin Chandra Hegde .. Applicant
Versus
The State of Maharashtra .. Respondent

Mr.Mr.Mahesh Vaswani i/b. Rupali Shimpi, Advocate for the applicant.

Ms.S.S.Kaushik, APP for the Respondent State.
Mr.S.Jadhav, API, Azad Maidan Police Station, is present.

CORAM : P.N. DESHMUKH, J.

DATED : 17th JUNE 2016

P.C. :

1 Accused Navin Chandra Hegde involved in Crime No.177 of 2016 dated 06/05/2016 registered for the offence punishable under Sections 419, 170, 183, 186, 120(b) of the Indian Penal Code by Azad Maidan Police Station has filed this application for seeking anticipatory bail.

2 According to the learned counsel for the applicant, he is owner of property bearing Flat No.1401 situated on the 14th and 15th floors of the building RNA Aurawille, Junction of Jagadhar Marg, Santacruz (West), Mumbai and had obtained loan to the extent of Rs.Seven crore from Tata Finance Company. However, he could not repay the same along with penal interest which is accrued to the extent of Rs.Three crore and in this background

came in contact with one Dr.Mahendra Wadiwala who expresses his willingness in investing in applicant's Company and on this pretext he introduced applicant to some persons and also had a talk of applicant by phone on conference facility with one person by name Joshi. Accordingly, applicant found that Dr.Mahendra Wadiwala's proposal for investments in his business was quite reasonable and on this count said Dr.Mahendra Wadiwala also used expensive car owned by applicant for his own purpose.

3 In the backdrop of above facts, it is material to note that the Court Receiver of this Court, on the basis of whose report present offence came to be registered, had lodged report with Azad Maidan Police Station on 05/05/2016 contending that Arbitration Petitions were filed by Tata Capital Housing Finance Limited against present applicant and other to secure amount of Rs.7,32,77,164/- and accrued interest to the extent of Rs.3,42,67,849/- along with penal interest @ 1.8% p.a. compounded monthly on aforesaid amount from the applicant.

4 From the report it reveals that pursuant to the order passed by this Court, Court Receiver is appointed in respect of mortgaged flat of applicant of which symbolic possession is taken by the Court receiver on 28/01/2016. It is further revealed from the report that on 4th April 2016 one phone call was received and the caller claimed that he was calling from the Union Ministry of Law and stated his name as one R.K.Sharma. The call was initially received by the stenographer attached to the office of Court Receiver which was transferred to the complainant-Court Receiver to whom the caller stated that he was working at Secretariat to

Ministry of Law and informed that the matter between Tata Capital Housing Finance Limited and applicant, whose property is situated at Santacruz is before the Court Receiver, wherein order for publication of notice is likely to be passed and then stated that Tata Capital Housing Ltd. has played mischief with the applicant and informed that necessary steps in this respect would be taken in short time and, therefore, publication be postponed by eight days.

5 It further reveals that the caller also gave details of Arbitration Petition No.367 of 2015 and Arbitration Petition No.548 of 2015 and his cell number. Said fact of receiving call, as above, was brought by the Court Receiver to the notice of this Court by submitting the Court Receiver's Report No.175 of 2016 and on said report, this Court directed MTNL to provide all the particulars with reference to call received on land-line number of Court Receiver on 4th April 2016 between 11.00 a.m. to 12.00 noon. However, no such details could be made available for want of other formalities to be carried out for obtaining such details. Subsequently, under the order of this Court, MTNL was directed to keep land-line number of Court Receiver under observations from 11/04/2016 and 12/04/2016 in between 10.30 a.m. to 6.00 p.m. and on 13/04/2016 between 10.30 a.m. to 4.30 p.m. The authority of Vodafone India was also directed to provide all the registration details and particulars in respect of cell No.9930972876 provided by the caller namely R.K.Verma. In pursuance to this, the Vodafone India submitted that above number is registered in the name of one Irfan Nasir Jaipuri resident of D/30, 1, Chandresh Manor CHS, Lodha Complex, Mira

Road, District – Thane. The CDR reveals that the call received on the land-line number of Court Receiver on 12/04/2016 was from the said mobile number. From the contents of document on record, it does appear that though on 4th April 2016 call was made from some location at Vidya Vihar caller informing his name as R.K.Sharma has played mischief on complainant/Court Receiver stating that he was calling from the office of Union Minister for Law, Government of India.

6 This Court, which is seized with the Arbitration proceeding, in the light of above details provided by the phone Company on 20th April 2016, passed an order observing that Mr.Irfan Nasir Jaipuri by making false representation to the Court receiver and asking him not to proceed with the sale of property had interfered with the administration of justice, and, had thus directed said Mr.Jaipuri to appear before said Court on 25th April 2016 to give his explanation. However, since he had not appeared before the Court on 25th April 2016, NBW came to be issued against him, and on execution of same on 02/05/2016, he appeared before this Court and informed that one day while he was standing on the footpath, one elderly person requested him to allow him to use his cellphone to make a call, and on being allowed, misused his cellphone by making phone call to the Court Receiver. On the same day, Mr.Jaipuri also informed that one Shekhar Chandrashekhar, who is co-accused along with his father in the present crime is involved in defrauding various depositors by using his cellphone, and stated that said Shekhar Chandrashekhar is arrested by Chennai Police, and is thereafter taken into custody in the present crime.

7 In view of statement of Mr.Jaipuri, as aforesaid, and having considering the involvement of applicant, the Court Receiver was directed to file a complaint for carrying out necessary investigation and submit before this Court on 06/06/2016. The case diary reveals that during the course of investigation cell Nos.9930321234 and 9930922876 are used and caller by using the cellphone misrepresented the facts thereby claiming that he was calling from the Secretariat of Union Minister for Law and has instructed the complainant/Court Receiver not to proceed with any action with regard to publication of notice involving applicant's flat by calling on 04/04/2016, on which applicant has obtained loan from Tata Capital Housing Finance Limited and failed to repay the same of which Arbitration proceedings are pending and property is attached as per the orders of this Court of which notional possession is with the Court Receiver.

8 Having considering the facts involved in the present crime, it is found that though the offence is based on documents detail investigation is necessary, which also includes custodial, interrogation of the applicant. In that view of the matter, there is no substance when it is contended on behalf of the applicant that he is falsely involved in the crime. Application is, therefore, rejected.

9 At this stage, learned counsel for the applicant prays for protection and for stay of this order, for limited time. However, applicant, since was neither granted any interim protection by the trial or by this Court, prayer is rejected.

(P.N. DESHMUKH, J)