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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.995 OF 2016

Gopi @ Uddani Vivekanand Chawdhari ..Applicant.

V/s.

State of Maharashtra ..Respondent.

Mr.Abhijit P. Kulkarni for the applicant.

Mrs.R.M.Gadhvi, APP for respondent-State.

CORAM : A.M.BADAR, J.

DATED : 15TH JUNE, 2016

P.C. :-

1. The applicant / accused in Crime No.237/2016 for the offence punishable under section 406 and 506 of the Indian Penal Code registered with Baramati City police station, Pune at the instance of the informant Nandkumar Raghunath Konde-Deshmukh, owner of transport trucks, is seeking pre-arrest bail.

2. Heard the learned counsel appearing for the applicant. By taking me through the entire text of the F.I.R., he argued that in fact three trucks of informant Nandkumar was taken on hire purchase agreement by the present applicant. The learned counsel for the applicant argued that

from time to time, the applicant had spent amount of Rs.34,88,000/- on maintainance of those three trucks, including expenses for salaries and food of drivers, helpers, expenses on tyres as well as various repairs. He further argued that an amount of Rs.6.15 lacs which was transferred to the account of the informant also comprise in the said amount. The learned counsel further argued that the statement of Andhra Bank, tendered by him across the bar, will depict the payment made by the applicant from time to time.

3. As against this, the learned APP argued that the offence is serious and applicant is not co-operating with the Investigating Officer, thereby disentitling him for the discretionary relief.

4. Perused the F.I.R. as well as the papers of investigation produced by the Investigating Officer. The F.I.R. lodged on 30th April, 2016 by Nandkumar shows that his family owns three trucks which were hired to the present applicant. The hire charges fixed were Rs,76,000/- per truck per month. The informant alleged that the trucks were handed over to the men of the applicant on or about 26th December, 2014 and

after initial regular payment of hire charges for two months, the applicant started defaulting in payment and since last one year, he failed to pay the hire charges of those three trucks. According to the informant, an amount of Rs.27 lacs is in arrears towards the hire charges of the truck and when demand was made, the applicant telephonically threatened.

5. The papers of investigation, *prima facie*, shows that the applicant induced informant to hand over possession of the three trucks to him on monthly hire charges at the rate of Rs.76,000/- per truck. However, it is seen even as per the submission of the learned counsel for the applicant that hire charges amounting to Rs.6.15 lacs are only paid to the informant. *Prima facie*, amounts spent on repairs, maintainance of the trucks is a liability which is required to be borne by the hirer and he cannot appropriate the said amount from the hire charges. *Prima facie*, it is seen that trust reposed by the informant was breached by the applicant. As such, it cannot be said that the applicant had not complicity in a non bailable offence. The seizure of trucks by the Investigating Officer is of no consequence.

6. The possibility of fleeing from justice is a relevant

criteria for grant of anticipatory bail. In the case in hand, record shows that on 9th May, 2016 notice was sent to the present applicant by the Investigating Officer to attend the police station, Baramati for the purpose of investigating. The applicant failed to attend the police station and he did not co-operate in the investigation. This has ultimately resulted in issuance of show cause notice by the learned J.M.F.C. Baramati to the applicant asking him to show cause as to why non bailable warrant should not be issued against him. This aspect assumes importance from the fact that the applicant is not a local resident of Maharashtra and he is resident of Telangana. He has not co-operated with the Investigating Officer in investigation of the crime in question. This fact is even noted by the learned Additional Sessions Judge, Baramati. With this material on record, it is difficult for me to conclude that the applicant will co-operate in investigation of the crime in question if released on anticipatory bail. Conduct of the applicant shows that he may not be available for trial and for receiving the sentence, if ultimately passed.

7. In this view of the matter, the application is rejected.

(A.M.BADAR, J.)