

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

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ANTICIPATORY BAIL APPLICATION NO. 1094 OF 2015

Amrut Namdeo Wadile & Ors.

...Applicants

Versus

The State of Maharashtra

...Respondent

.....

Mr. Hrishikesh Mundargi i/b Shraddha Sawant for the Applicant.

Mrs. S. S. Kaushik, APP for the Respondent-State.

Mr. D. V. Godbole for the Respondent No.2.

CORAM : A. S. GADKARI, J.

DATE : 9th FEBRUARY, 2016.

P. C. :

1. The applicants are apprehending their arrest in C. R. No. I-581 of 2014 dated 21.08.2014 registered with Mahatma Phule Police Statuion, Kalyan, District Thane under Sections 406, 408, 409, 467, 468, 471, 474, 420, 34 of the Indian Penal Code.

2. The complainant Mr. Tushar Chintaman More has lodged the FIR inter alia making specific allegations mainly against co-accused Dr. Hemant More, Mr. Hemant Naik, Smt. Supriya Patiyan, Mr. Suresh Khubchandani and Mr. Joshi, Manager, Indian Overseas Bank, Sion Branch. The complainant, in brief, has stated that the original accused No.1 Hemant More is his cousin brother. In

association with the said accused No.1 Dr. Hemant More he entered into business venture and thereafter established certain firms. It has been stated that the said co-accused Mr. Hemant More used to conduct the business of the said firms and used to sign documents. It is specifically mentioned that the said Dr. More has taken substantial quantity of articles and also opened fictitious firm by forging the signatures of complainant and has misappropriated a sum of Rs.1.50 Cr. In the premise the said FIR is registered.

3. Accused No.1 Hemant More thereafter preferred an application for pre-arrest bail before the trial Court. The learned trial Court by its detailed order dated 16.09.2014 granted pre-arrest bail to the principal accused Dr. Hemant More. In the said order it is specifically observed by the trial Court that the main allegation against the applicant therein (Dr. Hemant More) was that he had opened the bank account behind the back of the complainant and by withdrawing the amount as mentioned in the said complaint, misappropriated the amount. The trial Court has also held that the entire investigation of the present crime is totally based upon the documents. The trial Court relied on the Supreme Court Judgment reported in **AIR 2005 SC 2780 (1)** in the case of **M/s. Indian Oil Corporation Vs. M/s. NEPC India Ltd. & Ors.** wherein it is observed

that there is growing tendency in the business circles to convert purely civil cases into criminal cases is obviously on account of a prevalent impression that civil law remedies are time consuming and do not adequately protect the interest of the creditors. The trial Court, therefore, after taking into consideration the evidence collected by the Investigating Agency came to conclusion that there is no requirement of custodial interrogation of the applicant therein i.e. Dr. Hemant More.

4. Mr. Godbole, the learned Counsel appearing for the complainant vehemently opposed the present application and submitted that the said order dated 16.09.2014 passed by the learned trial Court is under challenge before the High Court. He drew my attention to the report dated 23.12.2014 submitted by the Investigating Officer before the trial Court while opposing the application of the present applicant in Anticipatory Bail Application No.1149/2014 preferred by the present applicant. He submitted that during the course of investigation the role played by the applicants has surfaced and though the other principal accused persons have been granted anticipatory bail, the custody of the present applicants is necessary who are the relatives of the main accused. He also submitted that the present applicants have conspired with the main

accused and have defalcated the amount in the present crime. He submitted that the custodial interrogation of the applicants is very much necessary for investigating the entire conspiracy/crime.

5. I have perused the papers of investigation. It is to be noted here that the main accused No.1 Dr. Hemant More has been released on pre-arrest bail by the trial Court as stated hereinabove. That the applicants are either close or distant relatives of the other accused persons including Dr. Hemant More. It appears from the record that the applicants are only signatories to some of the documents involved in the crime. The record discloses that Dr. Hemant More is the principal accused and who has played active role in the present crime. I am in agreement with the findings recorded by the trial Court that, the present crime is based entirely on the documents. The said documents are already seized by the police during the course of investigation. The custodial interrogation of the applicants at the hands of the police in the present crime is not necessary. It clearly appears to me that the complainant by making hue and cry, is pressurising the police machinery to take the applicants into the custody, by adopting all possible tactics. It, prima facie, appears that the complainant is having ill motive of arrest as far as the present applicants are concerned. It is to be noted that the

applicant Nos.1, 3 & 4 are about 59 years of age, and applicant No.2 is the wife of accused Dr. More. Applicant No.2 is also a doctor by profession. As stated above, it appears that the complainant is having ill motive against the present applicants and therefor is grinding an axe against them. In view of the peculiar facts and circumstances of the present case, the applicants deserve to be protected by way of pre-arrest bail.

6. Hence, the following order:

- (i) In the event of arrest of the applicants in C. R. No. I-581/14 registered with Mahatma Phule Chowk Police Station, Kalyan, the applicants be released on bail on their furnishing P. R. Bond of Rs.25,000/- each with one or two separate solvent sureties in the like amount.
- (ii) The applicants shall not tamper with the evidence and/or influence the prosecution witnesses.
- (iii) The application is allowed in the aforesaid terms.

(A. S. GADKARI, J.)