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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1348 OF 2016.

Rahul Balu Mashere .. Applicant.
Vs
State of Maharashtra .. Respondent.

Ms Anita Wakchaure, N.P. Thakur h/f Vijay Shinde for the applicants.
Mr Deepak Thakare, APP for the Respondent-State.

CORAM : A.S.GADKARI, J.
DATE : 29th August, 2016.

P.C.

1) This is an application for pre-arrest bail under section 438 of the Code of Criminal Procedure, 1973 in C.R. No.149/2016 registered with A.P.M.C. Police Station, Navi Mumbai under sections 420, 406 read with section 34 of the Indian Penal Code.

2) The first information report is lodged by Nagendra Vijay Sing. It is stated in the said report, that the informant is conducting the business of transport in the name and style of "Nilkanth Enterprises". That initially he came in contact of the applicant no.3, namely, Ajay Kank. The applicant no.3 represented the informant that he is in business of shipping (Clearing Agent) and subsequently introduced the applicants no. 1 and 2 who in turn represented the informant that their Company i.e. Excel Export is in the business of export of onion and assured the

informant to give 5% commission, if the informant resides at Dubai and helps the applicants in conducting the business. The applicants also represented the informant that for conducting business at Dubai, he requires "Azad Visa" and an amount of Rs.2,50,000/- will have to be incurred for the same. As the applicants had represented the informant for getting business in Dubai and the substantial amount of commission therefrom, the informant paid Rs.2,50,000/- to the applicants for getting the said "Azad Visa". It is further stated that despite the payment of said Rs.2,50,000/- the informant neither got the said Azad Visa nor the said amount was returned to him. In the premise, the first information report is lodged.

3) The learned counsel appearing for the applicants submitted that there is no record to show that the applicants, in fact, have received the said amount of Rs.2,50,000/-. She further submitted that the informant was having business transaction with the applicants and only with a view to recover certain amount arising out of the said transaction the first information report is lodged. She further submitted that this being the civil transaction the custodial interrogation of the applicants is not necessary and prayed that the applicants may be released on pre-arrest bail.

4) Per contra, the learned APP opposed the application and submitted that the first information report would aptly make it clear that the applicants initially lured the

informant for getting business at Dubai and subsequently under the guise of getting the said Azad Visa made him to pay Rs. 2,50,000/-. That neither the said alleged Azad Visa is received by the informant nor the applicants have returned the said amount. He, therefore, prayed that the present application may be rejected.

5) After perusing the first information report and other documents pertaining to the investigation, I find substance in the submissions of the learned APP. It prima facie appears that the applicants since inception were having the intention to defraud the informant for valuable amount. The applicants have failed to provide the said alleged Azad Visa but have also not returned the amount to the informant.

6) After taking into consideration of the fact that there are serious allegations against the applicants and the gravity of the offence, I am of the view that this is not a fit case to grant pre-arrest bail to the applicants. The custodial interrogation of the applicants is necessary to verify the fact, that whether the alleged Azad Visa is in existence, and if yes, whether the applicants are instrumental in procuring the same and also for the recovery of the money involved in the present crime. In view of the same, I find no merits in the application.

7) The application is accordingly dismissed.

(A.S.GADKARI, J.)