IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1664 OF 2016

Shri Ajit Namdeo Khandeshe .... Applicant
Vs.
The State of Maharashtra .... Respondent

Mr. Rahul Kadam, Advocate for the applicant.
Smt. J.S. Lohokare, APP for the State.
Mr. Sagar Kasar, Advocate for Respondent no.2.

Mr. G.J. Jaid, Asstt. Police Inspector, Bazarpeth Police Station, Kalyan (West).

WITH
ANTICIPATORY BAIL APPLICATION NO.1765 OF 2016

Shri Mahesh Mukund Choudhari .... Applicant
Vs.
The State of Maharashtra .... Respondent

Mr. Arjun Patil i/by Arjun Patil Law Global, Advocate for the applicant.
Smt. J.S. Lohokare, APP for the State.

Mr. G.J. Jaid, Asstt. Police Inspector, Bazarpeth Police Station, Kalyan (West).

Coram : N.W. SAMBRE, J.
Date : 19th December, 2016

P.C.

1 The applicants are seeking pre-arrest bail in C.R. No. I-141 of 2016, registered with Bazar Peth Police Station, Kalyan (West) for the offences punishable under Sections 408, 409, 420, 465, 467, 468, 471, 472, 473, 474, 477, 500, 506(2), 384 of Indian Penal Code and Sections 65, 65(b), 66, 71, 72, 73, 74(e) of Information Technology Act.

2 It is the case of the prosecution that the present applicants in connivance with each other has practised fraud on the complainant. The applicant Mahesh Chaudhari claimed to be an employee of the complainant by taking undue advantage of the ill-health of the complainant has withdrawn substantial amount from the account of the complainant and has tried to blackmail him. The conversation recorded in the mobile phone of the complainant is sought to be relied upon for the purpose of supporting the case of extortion resulting into invoking the provisions of the Information Technology Act. So far as the applicant in Application No.1664 of 2016 is concerned he appears to be competitors of the complainant and the prosecution has alleged that he has mediated in the matter of settling the extortion amount.

3 While trying to make out the case for grant of pre-arrest bail, both the counsel submit that since the applicant was

exposed by the present applicant particularly about his nature of dubious nature work carried out, the applicants have preferred complaint against the complainant before the various authorities resulting into enquiry and cancellation of registration of his firm with various authorities.

4 It is further claimed that so as to settle personal score and being competitor in the business, the complainant has named the applicant in the crime in question. It is also claimed that the alleged withdrawal of the amount from time to time by the applicant through cheques which were signed and issued by the complainant and the said amount has not gone to the account of the applicant as could be verified from the investigation papers. It is then claimed that even if the offence of extortion is considered, the maximum punishment provided is 2-3 years and as such bail is prayed.

5 The learned APP opposed the application on the ground that the FIR depicts prima facie involvement of the applicants in the crime in question. According to the learned APP, there is enough material collected during the investigation so as to infer the prima facie involvement of the applicant. The learned APP, who is assisted by the learned counsel for the complainant submits that the present applicant Mahesh has practised large scale fraud, claiming to be an employee of the complainant by taking undue advantage of the ill-health of the

complainant, and has withdrawn substantial amount from the account of the complainant, mis-represented the firm of the applicant and has committed fraudulent act. According to them, the custodial interrogation of the applicant is necessary.

6 The prosecution has relied upon the statement recorded under Section 164 Cr.P.C. of one Ranjana Kulkarni, the sister-in-law of the applicant, Mahesh so as to substantiate the contention about his prima facie involvement in the crime. However, it is required to be noted that the complainant has not denied his signature over the cheques, which were used to accused Mahesh for withdrawal of the amount. Whether such amount was put to appropriate use in the firm of the complainant, is an issue which could be gone into at the stage of investigation and for the same in my opinion, the custodial interrogation of the applicants is not warranted.

7 So far as claim of the applicant Ajit is concerned, the complainant has claimed that he is the business competitor of the complainant. It is the complainant, who has roped him in, so as to settle the difference between Mahesh and the complainant, as could be inferred from the telephonic conversation as reflected in the F.I.R. What could be inferred is the provisions of Sections 383 and 384 at the most provides for punishment of 2-3 years. In my opinion, having regard, to the history of differences in between the complainant and the

accused who has business competition, false implication of both the applicants cannot be ruled out.

8 Both these applicants have no criminal antecedents and are very much available for the investigation. In the above referred background, case is made out for pre-arrest bail and. In view thereof, in my opinion, the applications need to be allowed.

9 In the event of arrest, the applicants be released on P.R. Bond of Rs.50,000/- (Rupees Fifty Thousand only) each with one or two sureties in the like amount.

10 The applicants to attend Bazar Peth Police Station, Kalyan (West) from 27th December, 2016 to 30th December, 2016 between 10.00 am. and 12.00 noon and thereafter as and when called.

11 The applicant not to tamper with the evidence and/ or influence the witnesses in any manner whatsoever.

(N.W. SAMBRE, J.)