

Anand

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.582 OF 2017

Manoj Ramsurat Chauhan .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.Subhash Jha i/b. LAW GLOBAL, Advocate, for the Applicant  
Mr.S.S.Hulke, APP, for the Respondent – State  
Ms Asmita Sarangdhar, Advocate, for the Intervenor/Original  
Complainant

**CORAM : REVATI MOHITE DERE, J.**

**DATE : 17.04.2017**

**P.C.**

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks pre-arrest bail in connection with C.R.No.I-06 of 2017 registered with the Nhava Sheva Police Station investigated by Crime branch, Navi Mumbai, for the alleged offences punishable under Sections 384, 385 r/w.34 of the Indian Penal Code.

3. Learned counsel for the Applicant states that there is no material to connect the Applicant with the alleged offences. He submitted that if at all, there are allegations against

co-accused Sanjay Chauhan (Applicant's brother) but not against the Applicant. He submitted that the complainant has not approached the authorities with clean hands and that he himself was involved in massive illegal activities. He further submitted that in fact, there is a discrepancy in the complaint dated 10.01.2017 sent by the complainant to the Deputy Commissioner of police and the FIR dated 16.01.2017. He further submitted that although there are allegations of extortion since April, 2016, the complaint was lodged only some time in January, 2017. Learned counsel submitted that the Complainant is not a Director of M/s. Shakti Forwarding Private Limited and that the customs pass held by the Complainant was of 'G' category on behalf of M/s. Shakti Forwarding Private Limited. According to the learned counsel, it M/s. Shakti Forwarding Private Limited ought to have lodged a complaint and not the complainant. Learned counsel relied on the following Judgments in support of his contention to show that the Applicant had not put the complainant in fear of any injury i. e. 'illegal' harm.

- (i) ***Laxmi Dhar & another Vs. Rex, 1949 SCC ONLINE  
AJM 56***
- (ii) ***Tanumal Udhasingh Vs. Emperor, AIR 1944 SINDH  
203***

4. Learned APP opposes the Application. He submitted that the FIR dated 16.01.2017 clearly discloses the complicity of the Applicant. He submitted that the complaint dated 10.01.2017 shows that the Applicant was present along with co-accused Sanjay when the demand of Rs.10,00,000/- was made. He submitted that co-accused Sanjay was educated only upto the 8<sup>th</sup> Std and that it was the Applicant, who was filing RTI Applications and sending it to various authorities and that both were extorting money. He submitted that there are conversations on record between the complainant and co-accused - Sanjay which clearly show that the accused were trying to extort money from the complainant.

5. Learned counsel for the Complainant supported the submissions of the learned APP. She submitted that the Complainant was running a partnership by the name 'Transco Shipping Services', however, the customs pass was in the name of 'M/s. Shakti Forwarding Private Limited'. She submitted that there was no suppression of the said fact, even in the complaint.

6. Perused the papers.

7. It appears that the accused had filed RTI Applications with the Customs authorities, as a result of which there was some delay in getting clearances of the good, resulting in the complainant requiring to pay unnecessary damages and demurrage/detention charges. It appears that sometime in March, 2016, co-accused - Sanjay Chauhan approached the Complainant alongwith the present Applicant and both demanded extortion money of Rs.10,00,000/- from him and stated that if he failed to pay a sum of Rs.10,00,000/-, they would make complaints on the portal and would not let goods to be cleared from the customs; and would cause business loss to them. When the Complainant asked why money was being demanded, it was disclosed that it was their business to make money, by making complaints against agents and govt. officers. They further disclosed to the Complainant, that they would make false allegations of the relationship between customs agents and officers and cause losses to their business. According to the Complainant, the accused started making false complaints as a result of which there was a delay of 15-20 days in the work, which was otherwise being completed within a day. He has stated that as a result of the same, the Complainant's Company was required to pay damages and demurrage/detention charges.

According to the Complainant, he paid a sum of Rs.64,00,000/- from time to time as and by way of extortion money to the co-accused - Sanjay Chauhan. A perusal of the conversation between the Complainant and co-accused - Sanjay Chauhan prima facie shows that money was paid by the Complainant to co-accused Sanjay - Sanjay Chauhan. Insofar as co-accused - Sanjay Chauhan is concerned, he was arrested and subsequently, enlarged on bail after filing of the charge-sheet. It appears that co-accused - Sanjay Chauhan is educated only upto 8<sup>th</sup> Std and it is the Applicant, who is stated to be Customs Agent-cum-lawyer who had filed RTI Applications. Prima facie, there is material to show the Applicant's complicity in the crime. There is no material discrepancy between the Complainant's letter addressed to the D.C.P. and the FIR. As far as the allegation that the Complainant has not approached the authorities with clean hands is concerned, prima facie, there is nothing to indicate that the Complainant had suppressed any material information. The Judgments relied upon by the learned counsel for the Applicant are clearly distinguishable.

8. Considering the serious allegations made against the Applicant, custodial interrogation of the Applicant is necessary.

This is not a fit case to grant pre-arrest bail to the Applicant. The possibility of the Applicant tampering with the evidence also cannot be ruled out. Accordingly, the Application stands rejected.

9. If an Application for regular bail is filed, the same shall be decided by the learned Judge, on its own merits, uninfluenced by the observations made in this Order.

**(REVATI MOHITE DERE, J.)**