

nsc.

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.670 OF 2017

Hemang Ganeshbhai Moliya	...Applicant
Versus	
The State of Maharashtra and Anr.	...Respondents

***WITH
CRIMINAL APPLICATION NO.542 OF 2017
(FOR INTERVENTION)
IN
CRIMINAL ANTICIPATORY BAIL APPLICATION NO.670 OF 2017***

Vivek Dwarikanath Rai	...Intervener
-----------------------	---------------

IN THE MATTER BETWEEN

Hemang Ganeshbhai Moliya	...Applicant
Versus	
The State of Maharashtra and Anr.	...Respondents

Mr.V.M.Parkar, for the Applicant.

Mr.S.S.Hulke, A.P.P for the Respondent No.1-State.

Ms.P.H.Kantharia, Special P.P., for the Respondent No.2.

Mr.M.M.Badgujar, for the Intervener/Original Complainant.

CORAM : REVATI MOHITE DERE, J.
DATE : 19th JULY, 2017

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the applicant seeks pre-arrest bail in connection with C.R. No. 5 of 2017 registered with the Silvassa Police Station, Silvassa, Union Territory of Dadra and Nagar Haveli, for the alleged offences punishable under Section 381 of the Indian Penal Code.
3. Learned Counsel for the applicant submits that the applicant has been falsely implicated in the said case. He submitted that the applicant was coerced into filing the affidavit-cum-undertaking which is at page 8 of the application. He submits that soon after the applicant was coerced into filing an affidavit-cum-undertaking, the applicant sent a notice to the complainant dated 9th January, 2017, stating that he was forced and coerced to sign the affidavit dated 22nd December, 2016 and that without reading the same, he had signed the said affidavit-cum-undertaking. He submits that pursuant to the said notice, the aforesaid complaint has been filed by the

complainant.

4. Learned Counsel for the Applicant has tendered an affidavit-cum-undertaking of the Applicant - Hemang Ganeshbhai Moliya. The same is taken on record and marked 'X' for identification.

5. Learned Special Public Prosecutor, Ms.Kantharia states that the applicant has reported to the Investigating Officer of the concerned Police Station, as directed by this Court vide order dated 18th April, 2017. She submits that custodial interrogation of the applicant is not required.

6. Learned Counsel for the Original Complainant opposes the application.

7. Perused the papers. It appears that there is some dispute between the parties i.e. the complainant and the applicant. It appears that the applicant was employed as Technical Sales Executive with Ami Polymer Private Limited, Silvassa, Union Territory of Dadra and Nagar Haveli. It also appears that the applicant formed another company by the

name 'AGC Polymer'. The complainant has alleged that the applicant had stolen the software data of the company – Ami Polymer Private Limited, and that he apprehends, that the applicant would use the same to start his own company or would sell the same. The applicant has tendered an affidavit-cum-undertaking in this Court today. In the said affidavit-cum-undertaking, the applicant has stated that he is not in possession of any computer data and/or secret computer data pertaining to the business policy of the said company- Ami Polymer Private Limited, and that he has not, nor will he part and/or transfer the said computer data and/or secret computer data pertaining to the business policy of the company - Ami Polymer Private Limited, to any third person and/or the business competitor of Ami Polymer Private Limited.

8. In view of the aforesaid, the custodial interrogation of the applicant is not required. The application is accordingly allowed and the applicant is granted pre-arrest bail on the following terms and conditions :

ORDER

- (i) In the event of the arrest, the applicant be enlarged on bail on executing P.R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount ;
- (ii) The applicant shall report to the Investigating Officer of the concerned Police Station as and when called, till the filing of the charge-sheet or for a period of three months from today, whichever is earlier;
- (iii) The applicant shall not contact the complainant, witnesses or any person concerned with the case;
- (iv) The applicant shall co-operate with the Investigating Agency.

9. The Application is allowed in the aforesaid terms and is accordingly disposed of.

10. It is made clear that the observations made herein are *prima facie* and are confined to this application.

11. In view of the disposal of the Anticipatory Bail Application No.670 of 2017, the Intervention Application being Criminal Application

No.542 of 2017 does not survive and the same is also disposed of.

12. All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)