

Nalawade

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.827 OF 2017

Mr. Kishore Tarachand Patil.

..Applicant.

vs.

The State of Maharashtra

..Respondent.

Mr.S.D.Shinde i/by Ergo Juris for the Applicant.

Mr. Mandar Gosawami for the Complainant.

Mr. Prashant Jadhav, APP. for the State.

CORAM: A.S.GADKARI, J.

DATE : 26th September, 2017

P.C.

1. This is an application under Section 438 of the Code of Criminal Procedure for pre-arrest bail in CR No.I-97 of 2017 dated 12.4.2017 registered with Satpur Police Station, District Nashik under Section-420 of the Indian Penal Code.

2. The first information report is lodged by Shri. Jagdish Manikchand Agarwal stating that, the first informant was having business relations with the applicant since 2008. That the said informant through the applicant used to invest money in landed property and the applicant used to pay part of the profit accrued from land transactions to the first informant. That, the first informant suffered with paralysis stroke in the year 2010 and thereafter said transactions were being looked after by his son

Madhav Agarwal. That, the applicant in the year 2010 represented the first informant and his son Madhav that Nutralight Company was interested in purchase of 75-Acres of land at Village Pokari Shivar, Taluka Nandgaon, District Nashik and therefore, substantial investment will have to be made for purchase of land which will be subsequently sold to the said company at higher rate. The son of the informant Madhav thereafter withdrew certain amount from his bank account on various occasions and paid the said amounts to the applicant. The applicant has executed receipts for the payment of the said amounts. It is stated that initially an amount of Rs.20.00 lakhs was withdrawn from the business account and handed over to the applicant on 22.2.2012 and the last payment was made on 5.8.2016 by withdrawing amounts from State Bank of India and other banks. It is stated that the applicant has accepted a total sum of Rs.1,31,25,000/- from the first informant and neither repaid the said amount nor purchased the said land of 75 Acres at the said place. The informant subsequently realized that the applicant has committed an act of cheating and therefore, lodged the afore-stated crime.

3. Learned counsel appearing for the applicant submitted that, the present crime is registered by the informant

as a counter blast to his lodgment of CR No.8/2017 dated 8.1.2017 with Gangapur Police Station, District Nashik under Section 363, 342,506 read with 34 of the Indian Penal Code. In the said crime the applicant has alleged that Madhav Agarwal along with two other accused persons abducted him for the reason that the applicant herein did not pay the amounts accepted by him from Madhav and for its repayment the applicant was abducted and kept at an isolated place over night. He further submitted that the applicant used to take money from the first informant for his own business purpose and he only had assured or represented the first informant that land admeasuring 75 Acres was to be purchased at Taluka Nandgaon. He further submitted that the investigation of the present crime is relating to documents and for the same custodial interrogation of the applicant is not necessary. He therefore, prayed that the applicant may be granted pre arrest bail.

4. Perused the documents annexed to the application and the record of investigation. The Investigating officer Shri. Ashok K. Pawar has filed an affidavit dated 19.7.2017 in opposition of the present application. The record of investigation reveals that, the allegation of the first informant that, amounts were withdrawn from his bank account from time

to time is duly corroborated by the bank statements of the said accounts. The record further clearly indicates that the applicant has signed the receipts of acceptance of the payment from time to time. It prima facie appears that the applicant with dishonest intention represented the first informant about purchase of land at Pokari Shivar, Taluka Nandgaon and induced him to part with huge amount of Rs.1,31,25,000/- and has misappropriated the said amount for his own purpose. It further clearly appears from the record that the applicant has no intention either to return that amount or to convey the said land of 75-Acres in favour of the informant.

5. As far as contention of the learned counsel for the applicant that, the present crime No.97/2017 dated 12.4.2017 is a counter blast to the lodgment of his Crime No.8/2017 dated 8.1.2017 the FIR is concerned, it prima facie appears that even in the said FIR No.8/2017 the applicant has clearly admitted the fact of acceptance of certain amounts from time to time from the said Madhav and the applicant did not pay the interest to Madhav Agarwal and it was the reason for alleged abduction of applicant. It is to be noted that the present crime is registered after a gap of three months and it clearly appears that, it has no direct nexus with the earlier crime registered by the applicant. The present crime is an independent crime

arising out of another specific transaction as alleged by the informant.

As noted above, I am of the view that the applicant with dishonest intention represented the first informant to participate the said huge amount for purchase of land and has misappropriated it for his personal benefit.

6. After taking into consideration, the serious allegations against the applicant and the gravity of offence, this Court is of the view that, the applicant does not deserve to be protected by way of pre-arrest bail.

Application is accordingly rejected.

7. At this stage, the learned counsel for the applicant submitted that the applicant intends to test the correctness of the present Order before the Hon'ble Supreme Court and the interim relief granted earlier may be continued further for a reasonable period. At his request, interim relief granted earlier by an Order dated 4.5.2017 is continued for a period of three weeks from today.

(A.S.GADKARI, J.)