

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.975 OF 2017

Vishal Subhash Chand Goyal and another	Applicants
versus	
The State of Maharashtra and another	Respondents

Mr.Niranjan Mundargi i/by V.R.Gaikwad for Applicants.
Mr.Deepak Thakare, APP, for State.
Ms.Prajakta Deshmukh for Respondent no.2.

CORAM : PRAKASH D. NAIK, JJ.

DATE : 30th June 2017

PC :

1. The Applicants were granted interim protection vide order dated 22nd June 2017. Learned advocate for Respondent no.2 tenders an affidavit in the Court. In the said affidavit it is stated that the Respondent no.2 is one of the de-facto complainant in CR No.206 of 2016. It is stated that Respondent no.2 has received payment of Rs.35,77,300/- by demand draft from Applicant no.1 who is owner of M/s.Shiv Shakti Pulses against bills dated 16th May 2016 for Rs.18,20,190/- and Rs.17,57,110/- respectively. It is stated that Respondent no.2 has no grievance against present Applicants and against Shiv Shakti Pulses. The affidavit is taken on record and marked "X" for identification.

2. Learned advocate for Applicants submits that the Applicants were concerned only with Respondent no.2 Mr.Navin Kataria.

3. The Applicant no.1 is a businessman and carrying on the business of Indian and imported food grains as semi wholesaler in the trade name of Shivshakti Pulses. First information report was lodged by first informant against Nikhil Agarwal and Vaibhav Agarwal alleging that they cheated him by not making payment of commodities supplied by him. During the course of investigation, it was revealed that the accused had cheated several traders. The investigating officer recorded the statement of Navin Kataria of G.D.Enterprises. He stated that Vaibhav Agarwal has purchased 21.93 tonnes of Chickpeas of Rs.35,77,300/- from him in the name of Shiv Pulses, Delhi. Two bills were raised viz. bills dated 16th May 2016 of Rs.18,20,190/- and Rs.17,57,110/- by G.D.Enterprises. It was revealed that material was sold to Shiv Pulses by Vaibhav Agarwal. Applicant no.2 acted as a broker. The notices were issued to Applicants by police and they were asked to make payment. Apprehending arrest, they preferred applications before Sessions Court and this Court. The application was rejected by this Court vide order dated 2nd December 2016. While rejecting it was observed by this Court that amount in the matter of commodity supplied was to be recovered from the Applicants. The present application being the second application, is preferred in the circumstances referred to hereinabove. Since the Respondent no.2 had claims with the Applicant no.1 and in the event of affidavit tendered by Respondent no.2 Navin Kataria, that he has received the amount towards goods supplied, this application has been entertained. As the earlier application was rejected on the ground of recovery and the applicant has cleared the dues of Respondent no.2, the relief prayed for can be granted in this application. The Respondent no.2 has stated in the affidavit that he has no grievance against the Applicants.

4. In view of the affidavit and the aforesaid circumstances, interim order granted by this Court can be confirmed. Hence, I pass following order :

ORDER

- (i) Anticipatory Bail Application No.975 of 2017 is allowed;
- (ii) Interim order dated 22nd June 2017 passed by this Court is hereby confirmed;
- (iii) The application is disposed of.

(PRAKASH D. NAIK, J.)

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