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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1190 OF 2017

1. Pooja Sanket Charkha
2. Piyush Ramesh Malani ...Applicants

Versus

The State of Maharashtra ...Respondent

Ms.T.R.Shetty, for the Applicants

Mr.Arfan Sait, A.P.P for the Respondent-State.

Mr.A.U.Nikam, for the Original Complainant.

P.I – Prakash Khandekar, Warje Police Station.

CORAM : REVATI MOHITE DERE, J.

DATE : 27th JULY, 2017

<u>P.C.</u> :

1. Heard learned Counsel for the parties.

2. By this Application, the Applicants seek pre-arrest bail in connection with C.R.No. 159 of 2017 registered with the Warje Police Station, District – Pune, for the alleged offence punishable under Section 420 r/w 34 of the Indian Penal Code and under Section 66-C of the

Information Technology Act.

3. The Applicant No.1 is the wife of the Complainant and the Applicant No.2 is the brother-in-law. Learned counsel for the Applicants submits that the Applicant No.1 has filed a complaint Application in the Court of the learned Magistrate, Bhiwandi, under the Domestic Violence Act. She submitted that in the said D.V. proceedings, the Applicant No.1 had filed I.T. Returns of the Complainant, on 22.12.2016. She submits that on 10.03.2014, on the basis of the I.T. Returns, interim maintenance was awarded to the Applicant No.1. She submits that the aforesaid complaint has been lodged on 14.04.2017, i. e. after almost four months of the I.T. Returns, being filed in the D.V. proceedings. She submits that the applicants are innocent and had not hacked the complainant's income-tax account. She submits that the complainant had asked the Applicant No.1 to make an Application for refund of the I.T. Returns and hence, she was aware of the Account details, and therefore there was no question of hacking the complainant's Income-tax Account. She submits that the Applicant No.1 is doing her C.A.

4. Mr.Nikam, learned Counsel for the original complainant, on the instructions of the complainant, who is present in Court states, that the complainant would personally apply to the Income Tax Authorities and would get his password changed.

5. Learned APP opposed the application. He submitted that the custody of the applicants i.e. the wife and brother-in-law of the complainant is required to find out, whether they have misused the papers. He does not dispute the fact, that the applicants have reported to the Investigating Officer of the concerned Police Station, as directed by this Court vide order dated 12th July, 2017.

6. Perused the papers. The Applicant No.1 is the wife of the Complainant and the Applicant No.2 is the brother-in-law. It appears that Applicant No.1 had filed a complaint Application under the D.V. Act, in the Bhiwandi Court. It is also not in dispute, that in the Domestic Violence proceedings, the Applicant No.1 had filed Income-Tax Returns of the complainant on 22nd December, 2016, on the basis of which, interim maintenance was awarded to the Applicant No.1. It appears, that after 4

months of the filing the Income-Tax Returns in the Domestic Violence proceedings, the aforesaid complaint has been lodged. According to the learned counsel, the complainant had himself asked the Applicant No.1 to make an application for refund of the Income-Tax Returns and as such, there was no question of hacking the complainant's account. The said submission is vehemently denied by the learned counsel for the original complainant as well as by the learned APP. It appears, that the Applicant No.1 is a student and is studying Chartered Accountancy and that Applicant No.2 is working as an Insurance Agent.

7. The statement made by the learned counsel for the original complainant, on instructions of the complainant, who is present in Court, that the complainant would personally apply to the Income Tax Authorities and have the password changed, is accepted. In the facts of this case, the custodial interrogation of the applicants is not required.

8. Considering the aforesaid, the application is allowed and the applicants are granted pre-arrest bail on the following terms and conditions :

ORDER

(i) In the event of the arrest, the applicants be enlarged on bail on executing P.R. Bond in the sum of Rs.15,000/- each with one or two sureties in the like amount ;

(ii) The applicants 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 applicants shall inform their latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the trial Court as well as to the concerned Police Station, in writing;

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. The complainant is at liberty to file an appropriate application before the Income Tax Authorities and have the password changed. The Applicants to co-operate, if any assistance is required in that behalf.

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

(REVATI MOHITE DERE, J.)