

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

ANTICIPATORY BAIL APPLICATION NO.1446 OF 2016

Shri Nimish Girdhar Binani & Ors. ... Applicants

Vs.

The State of Maharashtra .. Respondent

with
CRIMINAL APPLICATION NO.717 of 2016

Mr.Shirish Gupte, Senior Advocate i/b S.H. Nimbalkar for the Applicant

Mr.S.S. Hulke, APP, for Respondent – State

Mr.S.S. Kale, PSI, Shivajinagar police station – Pune

Mr.Aniket Nikam with Aashish Satpute I/b C.S. Damre for Intervener

CORAM: Mrs.MRIDULA BHATKAR, J.

DATED: JANUARY 12, 2017

P.C. :

1. This Anticipatory Bail Application is moved for pre-arrest bail as the applicants/accused are prosecuted for the offences punishable under sections 420, 466, 467, 468, 469, 471, 474, 507 r/w 34 of the Indian Penal Code in C.R. No.55 of 2016 registered with the Shivajinagar police station, Pune.

2. Mr.Gupte, the learned Senior Counsel appearing for the applicants/accused, submits that he is not pressing the application for applicants/accused Nos.1 and 2, namely, Nimish Girdhar Binani and Shashank Suresh Somani and so, the Anticipatory Bail Application is to be entertained only against the other applicants/accused i.e., applicants/accused Nos.3 to 7 as mentioned in the application. He further submits that the applicants/accused Nos.1 and 2 will surrender before the learned Magistrate. The submission of the learned Senior Counsel is accepted and both the applicants/accused Nos.1 and 2 are directed to surrender before the learned Magistrate on 20.1.2017 at 11am and the learned Magistrate may take decision on merits. Accordingly, the Anticipatory Bail Application is disposed of against applicants/accused Nos.1 and 2 as withdrawn and not pressed.

3. One Nikhil Ramchandra Phulambrikar, Legal Manager of Quick Heal Technology Ltd. gave complaint to the police against all the applicants/accused and the co-accused that his company had supplied Anti-Virus products of Rs.20,22,64,520/- to one N.C.S. Computed Limited of one Manohar Malani, the principal accused.

However, the said amount was not paid by the company. Therefore, the complainant company filed civil suits against the company of the accused persons. The principal accused Manohar Malani alongwith his lawyer Nimish Binani started pressurising and threatening the complainant and the office bearers of the complainant company to withdraw the suits and not to demand money. They also threatened that they would cause a great financial loss to the Quick Heal. In February, 2016, Manohar Malani alongwith the co-accused represented in media that they are the 40% shareholders of Quick Heal Technology Ltd. and those shares are not listed in Quick Heal Technology Ltd. and the complainant company has deliberately transferred the same, though in fact the accused company and Manohar Malani were had purchased a single share of the complainant company. Because of various representations and the statements made by Manohar Malani and Nimish Binani and the other accused in the media, the credit of the complainant company got affected adversely and the shares of the complainant company collapsed and the company suffered financial losses to a great extent. It is the case of the complainant that in this activity, Manohar Malani and the co-accused alongwith Nimish Binani, went to the office of

the Registrar of Companies (ROC) and demanded certified copies of the document No.25. The certified copies of 19 pages were handed over to the applicants/accused on 16.2.2016 and thereafter on the next day i.e., on 17.2.2016 again, an application for certified copies of the document No.25 was made and at the time of inspection, the office of the ROC found that two extra pages were annexed in the record. Those two extra pages of the balance-sheet were found forged and those documents were manipulated to create bogus record in respect of holding of the shares of the complainant company. Hence, the complainant approached the police and the offence was registered at C.R. No.55 of 2016 as mentioned above. Hence, this pre-arrest bail.

4. The learned Senior Counsel appearing for the applicants/accused has submitted that the applicants/accused are not involved in this offence. They are the family members of the principal accused of Manohar Malani and therefore they are roped in this offence. No substantial role is attributed to these applicants/accused.

5. The learned Prosecutor has submitted, on instructions, that Manohar Malani was arrested and since the present application

has been withdrawn *qua* the applicants/accused No.1 Nimish Binani and No.2 Shashank Somani, he submits to the orders of this Court *qua* the other applicants/accused Nos.3 to 7.

6. Perused the FIR, considered the documents produced herewith as also the role of the applicants/accused and the nature of the offence. In the circumstances, I am inclined to grant pre-arrest bail to the remaining applicants/accused Nos.3 to 7 as under:

- i) In the event of arrest, applicants/accused Nos.3 to 7 shall be released on bail upon furnishing a P.R. Bonds in the sum of Rs.30,000/- each with one or two solvent sureties in the like amount;
- ii) The applicants/accused Nos.3 to 7 shall not tamper with the evidence;
- iii) The applicants/accused Nos.3 to 7 shall attend the concerned police station as and when called and cooperate with the Investigating Officer.

1. Anticipatory Bail Application is disposed of on the above

terms.

2. In view of the disposal of the Anticipatory Bail Application, the Criminal Application No.717 of 2016 is also disposed of.

(MRIDULA BHATKAR, J.)