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

ANTICIPATORY BAIL APPLICATION NO.1413 OF 2017

Sujata Sachin Pawar & Ors.

... Applicants

V/s.

The State of Maharashtra

... Respondent

Mr. Ritesh Thobde for Applicant

Mr. A.A. Palkar, APP for State.

Mr. S.V. Ghaugule, Amicus Curiae for Original Complainant.

CORAM : A.S.GADKARI, J.

DATE : 21st NOVEMBER 2017

P.C.:

1] The applicants are apprehending arrest in CR No.345 of 2016 dated 7.6.2016 registered with Hadapsar Police Station, District-Pune under Sections 143, 147, 149, 406, 420, 464(A), 389, 392, 120(B) of the Indian Penal Code.

2] Heard the learned Counsel for the applicant, learned APP and the learned amicus curiae. Perused the record of investigation.

3] The first information report is lodged by Shri Sachin Vitthal Pawar on 7.6.2016. It is stated that, he got married with applicant No.1- Smt. Sujata on 17.5.2016 as per Hindu religion. That in January 2014, he had sold ancestral land admeasuring about 31 ares and received Rs.30 lakhs. After receipt of the said amount, applicant No.1, co-accused Ajay Tupe and his wife Smt. Swati Tupe represented him that they are developing a land bearing Survey no.248 and 249 at village Sonari, Taluka Purandar, District-Pune and induced him to invest the said sum of Rs.30.00 lakhs in their said project. That the said accused persons after receipt of said Rs.30,00 lakhs, induced him to invest more amount in the business of plotting of land and in turn they will give him 30% profit out of the said business venture. The first informant by getting lured by the said representation, took a sum of Rs.65.00 lakhs from his brother, sister-in-law and other relatives and paid the said amount to co-accused Ajay Tupe and his wife Smt. Swati Tupe. That he also paid Rs.10,25,000/- by a cheque to the said accused persons. However, he did not get the profit/interest @30% on the invested amount and therefore he started demanding the said amount from the accused persons. In September 2016, the first informant has received information from his uncle that the scheme of plotting in

which the first informant has invested the said huge amount, his brother-in-law namely Ajay Tupe has not paid any amount to the agriculturists/land owners and the cheques issued by the accused Ajay Tupe in that behalf have been dishonoured. Due to the said information, the first informant tried to commit suicide by hanging himself, however, due to prompt alert/response by the family members, he was saved. It is further stated that on 18.2.2015, co-accused Ajay Tupe executed notarized Deed of Guarantee mentioning therein that he has received Rs.95.00 lakhs in cash from the first informant. That in return thereof, said co-accused Ajay Tupe gave him four cheques each amounting to Rs.23,75,000/- drawn on Sadhana Co-Operative Bank, Hadapsar, Pune. However, the said cheques were dishonoured on presentation. That on 26.2.2015 he received information from Balasaheb Gawde (Applicant No.5) of Gawdewadi requested him to come at Prince Hotel, Car Parking lot, Hadapsar, Pune where he wanted to return amount to the first informant which was paid to Smt. Swati Tupe. The first informant accordingly went to the said spot. That at the said spot, applicant Nos.4 and 5 were present and they by promising the first informant to come to Vaibhav Talkies, Magarpatta, Hadapsar, took the first informant from their Skoda car and proceeded to the said spot. That applicant Nos.4

and 5 instead of halting at Vaibhav Talkies, drove their car further and placed a sickle on the neck of the first informant and applicant No.4 robbed his valuables i.e. cash of Rs.70,000/- and mobile phone and thereafter took the first informant to Gawdewdi, Morachi Chincholi, Khed, Pune where, applicant Nos.2,3 and 6 were present. The applicant Nos.2 to 6 thereafter mercilessly assaulted the first informant till he got unconscious. That on the next day at about 11.00 a.m applicant Nos. 1,2 and 6 tried to took the first informant from their Volkswagen car at his residence, however, at Chakan signal the first informant got down and went to police station. In the premise the first information report is lodged.

4] The record indicates that the first informant after getting down from the car as noted earlier, immediately approached the Chakan Police Station and narrated the aforestated facts. It appears that, the police attached to the Chakan Police Station instead of jotting down the facts of the incident and lodging F.I.R. shrugged off their duty and recorded a non-cognizable offence bearing No.966 of 2015. Even in the said N.C., it is categorically mentioned by the first informant that, as he demanded his money back from the accused persons, they assaulted him with fist and extended threats of dire-consequences of his life. Prima facie, it appears

that the version of the first informant mentioned in the present crime has clear basis for it. The record indicates that as the police attached to Chakan Police Station did not take any cognizance of the complaint of the first informant, the first informant was left with no other alternative than to approach the Judicial Magistrate First Class by filing a private complaint. It further appears from the record that the present crime is registered after the concerned Magistrate directed investigation under Section 156(3) of Cr. P.C.. Thus the record clearly indicates that there is no delay at all in lodging the first information report or approaching the police immediately by the first informant and therefore the contention raised by the learned Counsel for the applicants that the present first information report is lodged belatedly has no substance in it. The record of investigation further reveals that the relatives of the first informant have categorically stated that at the request of first informant, they advanced money to him for further payment to Ajay Tupe and Swati Tupe for investing in their scheme.

5] It prima facie appears that, it is a well-planned conspiracy by all the applicants to dupe the first informant for its valuables and money and when the first informant demanded his money back, the applicants herein have beaten him mercilessly till he got unconscious. The sickle used in the

present crime by the applicant No.5 as well as the amount of Rs.70,000/- robbed by other accused persons are yet to be recovered and for this purpose, the custodial interrogation of the applicants is necessary.

6] After taking into consideration, the material available on record which apparently shows the complicity of the applicants in present crime, serious allegations against the applicants and the gravity of offence, this Court is of the view that the applicants do not deserve to be protected by pre-arrest bail.

In view thereof, the application is rejected.

7] Shri Chaugule, the learned Counsel was appointed in the present matter as an amicus curiae to assist the learned APP and to represent the complainant as per Order dated 23rd August 2017 and his fees is quantified of Rs.7000/- to be paid by the High Court Legal Aid Services. The High Court Legal Aid Committee is directed to make the said payment accordingly within a period of six weeks from today without seeking any further extension.

(A.S.GADKARI, J.)