

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1516 OF 2016

Santosh Popat Thorat	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Parbhanjan Gujar, Advocate for the applicant.

Mr. S.H, Yadav, APP for the State.

Mr. P.D. Kamble, A.P.I., Dapoli Police Station present.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **24th January, 2017.**

P.C.:

This Application is moved for anticipatory bail, as the applicant/accused is facing charges under sections 406, 420 r/w. 34 of Indian Penal Code. One Iqbal Ali Malvankar gave information to the police on 2nd November, 2015 that In December 2014 co-accused Mushtaq Yusuf Kalsekar approached him and informed that one Master Tread Link Pvt. Ltd. has given offer to give back Rs.5,400/- p.m. if an amount of Rs.1 lakh is invested. The complainant thereafter invested Rs. 5 lakhs by giving cheque, which was honoured on 19th December, 2014. Thereafter he received one bond wherein the Director of the Company has acknowledge receipt of amount of Rs.5 lakhs and has stated that the complainant would receive monthly payment. The applicant/accused is one of the directors of the company, who had signed the bond. Thereafter the complainant received Rs.26,901/- in the month of March and April, 2015 towards the monthly repayment. Thereafter he did not receive any amount so he

contacted Mr. Kalsekar and demanded his money back. Mr. Kalsekar went to Mumbai and he brought cheque of Rs. 5 lakhs dated 24th June, 2016 signed by the present applicant/accused. The complainant deposited the said cheque of Master Tread Link Pvt. Ltd., however it was dishonoured. Thereafter he tried to contact Kaleskar and asked for contact number of the applicant/accused and when he contacted the applicant/accused, he received no response. He, therefore, approached the police and gave information, pursuant to which the offence under sections 406, 420 r/w. 34 of Indian Penal Code at C.R. No. 93 of 2015 on 2nd November, 2015 registered with Dapoli Police Station, District Ratnagiri.

2. The learned counsel for the applicant/accused has submitted that applicant/accused is innocent. He is not only the director of the company but there are other two directors, i.e., accused nos. 4 and 5, however, they are not arrested. The learned counsel further submitted that if the company is responsible, then all the directors have collective responsibility. The learned counsel submitted that there is no intention to cheat the complainant and there is no evidence against the applicant/accused. He submitted that other accused, i.e., accused nos. 1 and 2 Mushtaq Yusuf Kalsekar and Asim Hussain Petkar were granted pre-arrest bail by the Sessions Court and therefore his case is also to be considered on same footing.

3. The learned APP submitted that accused nos. 1 and 2 were granted pre-arrest bail by the learned Sessions Judge on the ground that they acted as only the agents of the company. The applicant/accused is the one who has received the money and is the main director of the company. Learned APP further submitted that the statement of accused nos. 4 and 5, who are other directors of the company, are recorded by the police wherein the police transpired that those two persons have resigned from the company and they have not received any amount. He submitted that the police require custody of the applicant/accused to recover the money.

4. From the submissions of learned counsel for the applicant and learned APP, the involvement of the applicant/accused is apparent. The applicant/accused is one of the directors of the company and who has given the bond in respect of repayment signed by him to the complainant. So also a cheque which was dishonoured was signed by him. Under such circumstances, the case of the applicant/accused is different from accused nos. 1 and 2, who are protected by pre-arrest bail. The submissions of learned APP that money is to be recovered, as it is a case of cheating. Hence, Anticipatory Bail Application is rejected.

(MRIDULA BHATKAR, J.)