

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

CRIMINAL ANITICIPATORY BAIL APPLICATION NO.1506 OF 2016

Imran Yusuf Namakwala.	... Applicant.
Versus	
The State of Maharashtra.	... Respondent.

WITH

CRIMINAL APPLICATION NO. 807 OF 2016

IN

CRIMINAL ANITICIPATORY BAIL APPLICATION NO.1506 OF 2016

Mohammed Umar Hasnain Shaikh.	... Intervenor.
<u>In the matter of</u>	
Imran Yusuf Namakwala.	... Applicant.
Versus	
The State of Maharashtra.	... Respondent.

Ms. Gunjan Mangla, advocate for Applicant.

Mr. L.R. Shukla i/b. M/s. Legal Vision, advocate for intervenor.

Mr. R.M. Pethe, APP for State.

Mr. Nilesh Jadhav, PSI, Bhoiwada Police Station.

**CORAM : SMT. SADHANA S. JADHAV, J
DATE : MARCH 10, 2017**

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State. Perused the papers.

2 This is an application under section 438 of the Code of Criminal Procedure, 1973. The applicant herein is apprehending his arrest in Crime No. 148 of 2016 registered at Dr. D.B. Marg Police Station for offence punishable under section 387 read with 34 of the Indian Penal Code. The applicant was granted interim protection by this Court (Coram : A.S. Gadkari, J) on the ground that the learned APP had no instructions on that date.

3 It is the case of the prosecution that on 30/6/2016 Mohd. Umer lodged a report at the police station that there was some job work which was entrusted to the complainant. The amount that was due was Rs. 95535/-. It is alleged that on 19/9/2014 he had paid that amount of Rs. 95535/-. The said transaction was over. It is alleged that on 30/6/2016, the applicant had met the complainant and had

abused him and then demanded Rs. 5 Lakhs to be paid to his brother Irfan. In the year 2014 also the applicant had demanded protection money from the complainant. The said demand was reiterated on 30/6/2016. The applicant is praying for pre-arrest bail.

4 The learned APP submits that there are criminal antecedents. That the applicant is involved in similar offence. There are several offences registered against his brother Irfan at D.B. Marg Police Station.

5 The learned Counsel for the applicant refutes the same and submits that the only offence pending against the present applicant is Crime No. 240 of 2015 and that the applicant had no criminal antecedents. After granting interim protection, the applicant was directed to report to the police station and cooperate with the investigating agency. The statement of the applicant was recorded. Perused the statement. The applicant has contended that he does not know the man whom he had met on 30/6/2016. That he has

suddenly received a notice under section 41 informing him that he is an accused in Crime No. 148 of 2016.

6 The learned Counsel for the applicant has vehemently argued that there was some transaction between the complainant and the applicant. However, there is no reference to the same in the statement of the applicant. The conduct of the applicant needs to be taken into consideration at this stage. Earlier the applicant had made a grievance that the police has not given him the copy of the FIR.

7 Today, the learned APP upon instructions and on the basis of the report, submitted to the office of the prosecution, submits that on the relevant day i.e. 13/6/2016, the applicant had been to the police station and filed an application seeking copy of the FIR. That he had obtained signature of the dispatch writer as received and had tendered the said application in this Court indicating that he was not being given copy of the FIR, for which he has been summoned by issuing notice under section 41. It is incumbent upon the applicant to file an application before the concerned Magistrate seeking certified

copy of the FIR. The learned APP submits that the applicant has made frail attempt to mislead the Court against the investigating agency that he has not been given copy of the FIR.

8 Taking into consideration the material collected in the course of investigation, the statement of the applicant and the conduct of the applicant, the applicant does not deserve pre-arrest bail. The application stands rejected. Interim relief stands vacated.

9 The application stands disposed of accordingly.

10 At this stage, the learned Counsel for the applicant prays that this order be stayed. Taking into consideration the fact that the interim relief is vacated and no case for anticipatory bail is made out, the said prayer is rejected.

11 Intervention application is allowed and disposed of accordingly.

(SMT. SADHANA S. JADHAV, J)