

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1683 OF 2017

Lalchandra Badriprasad Tiwari ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr.Murtiza Najmi a/w Mr. Ashish Mehta a/w Sana Bundeally
i/b Ashish Mehta for the applicant.
Mr. S.V. Gavand, APP for the State.

CORAM: A.M. BADAR, J.
DATED: 31st OCTOBER, 2017

PC:-

1. The applicant/accused in Crime No.356 of 2017 for offences punishable under Sections 354, 509, 504, 506 and 323 of the Indian Penal Code registered with Kandiwali Police Station at the instance of Mrs.Veebha Barangade, by this application is seeking pre-arrest bail.

2. Heard the learned advocate appearing for the applicant/accused. By pointing out various complaints made by the applicant to several State Authorities in respect of

conduct of M/s Alliance Hospitality in providing house keeping services to his client Raghuleela Mall the learned advocate submitted that the applicant is falsely implicated in the crime in question by the first informant. It is argued that there is serious dispute between the parties and the applicant who is a legal advisor of Managing Committee of Raghuleela Mall had taken all possible steps to safeguard interest of his client and to check illegalities committed by Alliance Hospitality, a firm of the first informant. This has resulted in registration of crime in question against the applicant.

3. The learned APP drew my attention to the First Information Report lodged by the first informant and submitted that the averments made in First Information Report, *prima facie* shows that the applicant is involved in a non bailable offence and considering a nature of offence his custodial interrogation is warranted.

4. I have carefully considered the rival submissions and perused the material made available. First Informant Veebha Barangade averred that she alongwith her husband are owner of Alliance Hospitality and a firm providing house keeping services. Though the first informant has not mentioned about contract between her firm and M/s Raghuleela Mall, the First Information Report lodged by her indicates that Managing Committee Members of the Raghuleela Mall called agreement and papers of compliance executed in favour of Alliance Hospitality. This happened on 08.09.2017. The first Informant further averred that she then went to the office of society. The First Information Report reveals that some Managing Committee Members as well as the present applicant were present there. The first informant further averred that the present applicant pushed her after touching her breast and the co-accused named Bharat Lalwani abused her in filthy language.

5. It is seen from the record made available that the present applicant is legal advisor to the Managing Committee, who is Managing the affairs of M/s Raghuleela Mall. The Letter of Intent dated 28th January 2016 so also the agreement dated 1st February 2016 shows that the contract of providing house-keeping services to M/s Raghuleela Mall was entrusted to a firm named Alliance Hospitality belonging to the present applicant and her husband who happens to be the treasurer of the Managing Committee of Raghuleela Mall. The Letter of Intent shows that deployment of 55 staff for managing house-keeping services was mandatory. It is seen from several complaints which are of *anti litum motem* in nature that the present applicant being legal advisor of M/s Raghuleela Mall had taken up the issue of non providing adequate number of staff by firm owned by the first informant to various authorities of the State including the Deputy Registrar of Co-operative Societies, the Commissioner of Labour as well as Senior Inspector of Police of Kandiwali Police Station. These documents which are prior to lodging the First Information

Report depicts action sought by the present applicant against the firm of the first informant which, according to the Managing Committee of the Mall has not provided requisite services in pursuant to the agreement entered into between the parties. It is also seen that despite the fact of non providing adequate services as required by the agreement, a lump sum amount of Rs.80,000/- per month was used to be paid to the firm of the first informant. Therefore, the Treasurer of the Managing Committee, who happens to be husband of the first informant was warned not to sign cheques in favour of M/s Alliance Hospitality. In pursuant to the complaint lodged by the present applicant against the firm of the first informant, the Deputy Registrar of the Co-operative Societies vide his order dated 31st July 2017 has prohibited the Managing Committee of the Raghuleela Mall from distributing any payment to M/s Alliance Hospitality belonging to the first informant. As a result of complaint lodged by the present applicant with the Commissioner of Labour, the Deputy Commissioner of Labour vide

communication dated 4th September 2017 had directed the Assistant Commissioner of Labour to conduct inquiry in respect of adopting unfair trade practices by M/s Alliance Hospitalities. The applicant had furnished particulars to the officer of the department of Co-operation of the State disclosing the fact that on some occasion as less as 4 or 9 house keeping staff was provided by M/s Alliance Hospitality.

6. In the wake of these *anti litum motem* happenings if averments in the First Information Report are examined then a reasonable doubt creeps in the mind that provisions of criminal law might have been used against the present applicant with some ulterior motives. Be that as it may, considering all these happenings as well as the fact that the first informant was seriously aggrieved by acts of the present applicant which has resulted in non releasing of any funds to the firm his custodial interrogation is not warranted. As such the order:-

ORDER

- i) In the event of his arrest in Crime No.356 of 2017 for the offences punishable under Sections 354, 509, 504, 506 and 323 of the Indian Penal Code registered with Kandiwali Police Station the applicant/accused be released on bail on executing PR bond of Rs.15,000/- and on furnishing surety in the like amount.

- ii) As a condition of this order, the applicant / accused shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the court or to the Police Officer.

- iii) The applicant should not contact the first informant in any manner.

iv) The applicant to attend the Investigating Officer as and when informed by the written notice for the purpose of investigation.

v) The application is disposed of.

(A.M. BADAR, J)