

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1771 OF 2016

Mohd. Imran Ibrahim Khan ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Ganesh Gole i/b. Ms.Meghna A. Gowalani for the applicant.

Smt. J. S. Lohokare, APP for the respondent-State.

Sr.P.I. G. Jawale, Shil-Diaghar Police Station, Thane present.

CORAM : PRAKASH D. NAIK, J.

DATE : 3 JULY 2017

P.C. :

1. The applicant is apprehending arrest in connection with C.R. No.I-196 of 2016 registered with Shil-Diaghar Police Station, Thane. The offence was registered under section 379 read with 34 of IPC.

2. It is the case of the prosecution that the accused in furtherance of common intention committed theft of lead amounting to Rs.13,58,249.00. The vehicle carrying this scrap of lead was intercepted by the police and since there was no explanation from the driver and the cleaner about the scrap lying in the vehicle, they were arrested. During the course of investigation, it was revealed that the

scrap was being transported at the instance of the applicant / company namely Iqwa Enterprises.

3. The co-accused were arrested and granted regular bail. The applicant preferred an application for anticipatory bail which has been rejected.

4. Leaned advocate for the applicant submitted that the applicant has been falsely implicated in the crime. He further submitted that scrap was purchased from the company namely NRC Limited. The employee of the said company has submitted an affidavit stating that the said scrap material was sold to the applicant company. One of the affidavit is annexed to this application. He further submitted that the application for return of property was made before the concerned Court at the instance by the applicant's company. He submitted that the custodial interrogation of the applicant is not necessary.

5. Learned APP submitted that the claim of the applicant that this scrap material was purchased from NRC limited was doubtful. There is suspicion with regard to the documents submitted by the applicant in support of his claim, that the scrap material was sold to the applicant company by NRC private limited. It is submitted that the

applicant is involved in the offence of theft.

6. This Court vide order dated 5 May, 2017, deprecated the conduct of investigating officer as he was not attending the proceedings. The Director General of Police, Maharashtra was directed to conduct appropriate enquiry against the said investigating officer. Learned APP submitted on instruction, that the said direction was complied with and action has been initiated against the said officer.

7. The applicant was granted interim protection vide order dated 13th October, 2016. It is noted that there is no complaint from NRC Limited that the applicant has committed theft of the scrap material which is subject matter of the present proceedings. The statement of official of the said company were recorded during the investigation. However, in the said statement it is stated that the accused have committed the theft of the said goods. The property was seized immediately and subsequently the same has been returned as per order of the trial Court.

8. Taking into consideration aforesaid circumstances, the application has to be allowed.

ORDER

- (i) Anticipatory Bail Application No.1771 of 2016 is allowed.
- (ii) Interim order dated 13th October, 2016 is hereby affirmed.
- (iii) The applicant is directed to report Shil-Diaghar Police Station, Thane as and when called for.
- (iv) Application stands disposed of.

[PRAKASH D. NAIK, J.]