

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2005 OF 2017

MOHAMMAD RAFIQUE ZAINUL ABELIN)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Ram Apte, Senior Advocate i/b. Mr.Kunal Rane, Advocate for the Applicant.

Ms.PN.Dabholkar, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 17th NOVEMBER 2017

P.C. :

1 The applicant/accused in Crime No.280 of 2017, registered with Police Station Dharavi, Mumbai, for offences punishable under Sections 406, 420, 465, 467, 468, 471 read with Section 34 of the Indian Penal Code (IPC), at the instance of Sunderlal Vishwakarma, by this application, is seeking pre-arrest bail.

2 Heard the learned senior advocate appearing for the applicant/accused. By pointing out Indemnity Bond executed by co-accused Laik Ahmed Shah, the learned senior advocate argued that the applicant/accused is, infact, owner of the chawl, of which the First Informant was the tenant. He had actually kept co-accused Laik Ahmed Shah as sub-tenant and on the basis of Indemnity Bond executed by the co-accused, the present applicant/accused had started issuing rent receipts to Laik Ahmed Shah, who was residing in the premises for more than eight years.

3 The learned APP opposed the application by contending that after lodging the First Information Report (FIR), there was threat to the First Informant which resulted in registration of non-cognizable report against the present applicant/accused.

4 I have carefully considered the rival submissions and also perused the FIR as well as case diary. The FIR itself reveals that First Informant Sunderlal Vishwakarma was tenant of the

present applicant/accused being in occupation of the room in the chawl owned by the present applicant/accused. The FIR lodged by Sunderlal further reveals that eight years after he had decided to shift his residence to some other place and kept his friend Laik Ahmed Shah as a licensee in the said room. It is averred by the First Informant that taking advantage of the situation that he permitted his friend Laik Shah to occupy the premises as a licensee, Laik Shah as well as the present applicant/accused, who is owner of the premises, indulged in forgery, forgery for the purpose of cheating and fabrication of the document. It is seen that co-accused Laik Shah has executed an Indemnity Bond in favour of the present applicant/accused, who is owner of the premises. Clause (1) of Indemnity Bond unequivocally points out that co-accused Laik Shah has undertaken responsibility to indemnify the present applicant/accused in the event of incurring any losses, damages, adverse claims or litigation. Laik Shah had made the present applicant/accused to believe that the First Informant has transferred his tenancy right in favour of him. It is also seen from the FIR that the averments regarding forgery,

forgery for the purpose of cheating etc. are directed against the co-accused. Role attributed to the present applicant/accused is only of aiding him to indulge in commission of offence.

5 In this view of the matter, considering the nature of evidence available against the present applicant/accused, his custodial interrogation is not warranted. Perusal of the report shows that the same is lodged after filing of the FIR. That by itself is not relevant for curtailing liberty of the present applicant/accused. In the result, following order :

ORDER

- i) The application is allowed.
- ii) In the event of arrest in Crime No.280 of 2017, registered with Police Station Dharavi, Mumbai, for offences punishable under Sections 406, 420, 465, 467, 468, 471 read with Section 34 of the Indian Penal Code, the applicant / accused shall be released on bail on his executing P.R.Bond in the sum of Rs.15,000/-, and on furnishing surety in like amount.

- iii) The applicant / accused shall not tamper with the prosecution evidence.
- iv) 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.
- v) The applicant / accused shall attend the concerned Police Station on 24th November 2017 and 27th November 2017 between 11.00 a.m. and 1.00 p.m. till filing of the charge-sheet, and shall co-operate the Investigator in the investigation of the crime. In addition, the applicant/accused shall attend the Investigating Officer as and when called for the purpose of investigation.
- vi) The application is disposed of.

(A. M. BADAR, J.)