

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2162 OF 2016

Abhishek Mahesh Motewar	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Sidheshwar Namdev Biradar, Advocate for the applicant.
Mr. S.S. Pednedkar a/w. Mr. Prashant Jadhav, APP for the State.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **11th January, 2017.**

P.C.:

This Application is moved for pre-arrest bail under section 438 of Cr.P.C. The applicant/accused is prosecuted for the offences punishable under section 420, 406 r/w 34 of IPC and under section 3(1)(x), 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. He is also prosecuted under section 7(1)(d) of the Protection of Civil Rights Act, 1955. One Anil Kisan Khandare has given information to the police on 19/07/2016 that one Mahesh Kisan Motewar, father of the applicant/accused has launched a company namely Samruddha Jeevan Multi-State Cooperative Society, Pune at Ghole Road, Shivajinagar, Pune and they have extended business at Barshi, Solapur. It was represented to the complainant that if the amounts are invested in the company, then they would get good returns and therefore on this representation all the agents of the company invested amount of Rs.6 lakhs. So the complainant invested Rs.76,000/- in the name of his mother, wife and brother. He also collected amount of Rs.2,212,625/- from his relatives and invested it in the

said society. In the month of December 2015 he learnt that offence was registered against Mahesh, as he had deceived many investors and did not return their money. Many investors approached the complainant, as he was working as an agent of the said company. It is his case that due to shock his father died on 01/04/2016 and thereafter he went to office of company at Shirole Road, Shivajinagar, Pune alongwith receipts of all the investors. There he met applicant/accused Abhishek and demanded money. At that time applicant/accused abused him by his caste and at his instance the bodyguards assaulted him. It is the case of complainant that when he approached the accused, he refused to return the money and threw him out of his office. Hence, he lodged complaint against the applicant/accused.

2. The learned counsel for the applicant-accused has submitted that the applicant-accused is a son of principal accused Mahesh Motewar, however, the applicant-accused is not at all involved in the business of either of the companies of Mahesh Motewar. He is neither a office bearer nor the director in the company. He is taking education. The learned counsel further submitted that though the offence is registered under Scheduled Castes and Scheduled Tribes Act, there is nothing on record to show that the applicant-accused was aware that the complainant belonged to Scheduled caste. He further submitted that incident of abuse, as per the complaint, was taken place on 11th April, 2016, however, the complaint

was lodged on 19th July, 2016 and therefore, he prays for pre-arrest bail.

3. Learned APP opposed the Application and submitted that the applicant-accused though is not the director of the company, some property stands in his name and Rs.82,00,000/- were deposited in his account and some amount is withdrawn by the applicant-accused. He submitted that there is bar under section 18 of Scheduled Castes and Scheduled Tribes Act to invoke jurisdiction of the Court under section 438 of Cr. P.C.

4. Perused the FIR and the papers placed by learned APP before the Court. The complainant is an aggrieved person, as he himself is cheated by Mahesh Motwar and the companies of Mahesh Motwar. He worked as agent of the company and, therefore, the persons who invested through him were also cheated, hence his grievance and allegations against the company and its directors are very well justified. So far as the allegations made against the applicant-accused are that he abused the complainant by his caste and he refused to pay the money. However, the applicant-accused is neither the office bearer nor the director of the said companies who induced people to invest money in those companies. It is not the case of the prosecution that he was in employment of the company and actively participated in inducement in respect of investment. He was arrogant with the complainant and refused to give money. The main

allegations against the applicant-accused is in respect of abusing the complainant by caste. However, there is nothing on record to show that the applicant-accused had knowledge that the complainant belonged to Scheduled caste. As pointed out by the learned counsel for the applicant-accused, there is a delay of nearly 4 months in the incident and lodging of the FIR. In view of this, bar under section 18 of Scheduled Castes and Scheduled Tribes Act at this stage cannot be attracted and I am of the view that custodial interrogation of the applicant in the present case is not required, Hence, I confirm the pre-arrest bail granted by this Court on 20th December, 2016 to the applicant-accused on the same terms. The applicant/accused shall attend the concerned police station as and when called by the Investigating officer. The applicant/accused shall not indulge into any criminal activity.

5. The Application for Anticipatory bail stands disposed of on above terms.

(MRIDULA BHATKAR, J.)