

Sarnobat

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

ANTICIPATORY BAIL APPLICATION NO. 89 OF 2018

Jivan Sahebrao Hirey.

.. Applicant.

Vs.

The State of Maharashtra.

.. Respondent.

Mr. Shashank C. Mangle, for the Applicant.

Mr. S. H. yadav, APP for the Respondent.

CORAM : P. N. DESHMUKH, J.

DATE : 11th APRIL, 2018.

P. C. :

1. This application is for anticipatory bail in crime No. I-102/2017 registered with Wadner Khakurdi Police Station, Malegaon, Nashik for offence under Section 353, 379, 511 of I.P.C. and Section 48 of M.L.R.C. Applicant is protected by interim orders of this Court dated 17th January, 2018. Till today matter is repeatedly adjourned for want of presence of investigating officer. On the last date learned APP has placed on record affidavit in reply and today has sought time for want of investigating officer. However, as it is noted that the interim relief is in force for long time, investigating officer is not present earlier and as well as today. By consent application is heard.

2. It is the specific case of applicant that he is falsely

implicated as prior to lodging of report against him which dated 23rd December, 2017, on 8th May, 2017 he had made complaint against one Abhijit Sonawane, Clerk attached to the office of Tahasildar, Malagaon. Said complaint was made to higher Revenue Officer alleging that applicant having known said Abhijit Sonawane provided him details of his bank account with Punjab National Bank as Abhijit Sonawane had informed him, that he was to receive certain amount from his friend and the said amount to be received in applicant's account as there were number of transactions already made in the account of Abhijit Sonawane. Accordingly, it is further alleged by applicant that Rs.10 Lakhs was deposited in his account on 31st march, 2017 which he withdrew on 3rd April, 2017 and paid to Abhijit Sonawane. However, thereafter, it is learnt that said amount was deposited in his account from some Government Account and therefore, on his inquiry from Abhijit Sonawane he threatened him not to disclose such fact to any one and falsely implicated him in the case. Admittedly, no investigation appears to have been carried out on the basis of said complaint of applicant lodged to Revenue Office of Malegaon and other senior officers.

3. The affidavit in reply is silent on such complaint made by applicant. According to the prosecution, on 21st December, 2017 Talathi Smt. Sayshree D. More, had received information from some villagers

that some persons are illegally excavating the soil from the bank of Mosam river and transporting it in tractor and trolley and on her inquiry she found one tractor trolley with some person who inspite of directions uploaded the vehicle with soil. Affidavit further reveals that the complainant obtained video shooting of the entire act. However, there is no mention in the affidavit of any panchanama drawn about contents of alleged video shooting. In that view of the matter, contents of para 7 of affidavit in reply, are too short to be believed at this stage.

4. Having considering facts as aforesaid, application is liable to be allowed as per order below;

ORDER

(i) Order passed by this Court dated 17th January, 2018 granting interim protection to applicant stands confirmed.

(ii) Applicant shall however, co-operate the investigation and attend investigating officer if called till filing of charge-sheet.

[P. N. DESHMUKH , J.]