

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 565 OF 2017

Dharmendra Kumar Arora ... Applicant

V/s.

The State of Maharashtra ... Respondent

WITH
CRIMINAL APPLICATION NO. 618 OF 2017
IN
ANTICIPATORY BAIL APPLICATION NO. 565 OF 2017

Chandresh Jayanti Bhanushali ... **Intervenor**

IN THE MATTER BETWEEN

Dharmendra Kumar Arora ... Applicant

V/s.

The State of Maharashtra ... Respondent

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Mr. J.S. Hegde for the Applicant.

Mr. R.M. Pethe, APP for the Respondent/State.

Mr. Vishal Kolekar for the intervenor.

API Darade attached to Oshiwara Police Station.

CORAM : A.S.GADKARI, J.
DATE : 8th JANUARY, 2018

PC.:

This is an application under Section 438 of Cr.P.C. for pre-arrest bail in C.R. No. 73 of 2017 registered with Oshiwara Police Station, Mumbai under Sections 420 & 406 read with Section 34 of the Indian Penal Code.

2 Heard the learned Counsel for the Applicant, learned Counsel for the first informant and learned APP at length. Perused the record of investigation.

3 The first information report is lodged by Mr. Chandresh Bhanushali. It is stated that the first informant is working as a producer for M/s Aartha Creations LLP and is producing various Television Serials for Doordarshan. The Applicant is owner of “Mentor Movie Makers” and is also producing television serials. That in October 2015 the Applicant approached the first informant and informed him that Smt. Bhairavi Raichura (Co-accused) is the owner of “24 Frames Media” and has prepared 130 parts of Television Serial namely “Tum Bin Jina Jaye Na”. That she has received permission for broadcasting further episodes from 131 to 260 from Doordarshan. However, due to her personal difficulties, she was unable to prepare the same and is in search of new partner for the same. The Applicant also showed him an agreement of Smt. Raichura with Doordarshan. It was also informed to the first informant that for every episode which would be telecast on Doordarshan, the co-accused Bhairavi Raichura will pay a sum of Rs.15,000/- to the first informant. The first informant was thereafter, induced to pay sum of Rs.1 crore to the Applicant and co-accused Smt. Bhairavi Raichura. As per the first information report the Applicant promised him to pay substantial profit on the said amount invested by him. As the Applicant and co-accused did not honour it commitment and there were certain disputes between them, the first informant filed Summary Suit (L) No. 67 of 2017 in this Court. After perusing the documents annexed by the first informant in the said summary suit, it was revealed to the informant that co-accused Bhairavi Raichura was entitled to

accept Rs.15,000/- per episode from Doordarshan, however she taken Rs.30,000/- for every episode and did not pay the agreed amount to first informant. It is categorically alleged that the Applicant and co-accused induced the informant to invest a sum of Rs.1 crore for producing and telecasting the said episodes from 131 to 260 of the said Serial and after receipt of payment from Doordarshan, did not pay the agreed amount to the informant and has defalcated the entire amount for their personal benefits. In the premise the first information report is lodged.

4 The learned Counsel for the Applicant submitted that the transaction involved in the present crime is civil in nature, as it is apparent from the fact that the first informant has already instituted a civil suit in this Court. He further submitted that there is dispute with regard to the quantum of profit to be shared between the parties, so also, it is the case of the Applicant that he has repaid substantial amount to the first informant and said documents are accordingly, produced before the Civil Court. He submitted that the custodial interrogation of the Applicant therefore, is not necessary and Applicant may be protected by pre-arrest bail.

5 Mr. Vishal Kolekar, the learned Counsel appearing for the first informant and learned APP Mr. R.M. Pethe vehemently opposed the application.

A bare perusal of the first information report, would reveal that the Applicant along with co-accused Smt. Bhairavi Raichura initially induced the first

informant in investing the said sum of Rs.1 Crore for the alleged production and telecasting of episodes on Doordarshan from No. 131 to 260 and subsequently did not pay the promised dividend/profit on it. The record further indicates that, after receipt of payment from Doordarshan, the Applicant and co-accused instead of making payment to the first informant, utilized the said amount for their personal benefits and have committed an act of cheating as alleged by the first informant.

The record further clearly indicates that the Applicant and co-accused by giving false, assurance and promises to the first informant induced him to part with the said huge amount of Rs.1 crore and have subsequently defalcated the same for their personal benefits. The said amount is yet to be recovered by the police and same is not possible without their being custodial interrogation of the Applicant.

6 After taking into consideration, the serious allegations against the Applicant and the gravity of the offence, this Court is of the view that the Applicant does not deserve to be protected by pre-arrest bail.

7 Application is accordingly rejected.

8 In view of the order passed in ABA No. 565 of 2017, the present application No. 618 of 2017 for intervention does not survive and is also disposed off.

(A.S.GADKARI, J.)