

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 720 OF 2018

Chandrashekhar Gokul Narvekar. ..Applicant.

V/s.

The State of Maharashtra & anr. ..Respondents.

Mr. P.G. Sarda I/b. Mr. Sachin T. Zalte, advocate for applicant.

Mr. Vijay Killedar, advocate for respondent No. 2.

Mr. S.R. Agarkar, APP for State.

Mr. Sunil Kalgutkar, PI, EOW, Pune.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : JULY 9, 2018.

P. C. :

1 Heard the learned Counsel for the applicant and the learned APP for State.

2 This is an application under section 438 of the Code of Criminal Procedure, 1908. The applicant herein is apprehending his arrest in Crime No. 220 of 2018 registered at Nigdi Police Station on 28th March, 2018 for offence punishable under section 420, 406, 467, 468, 471 read with Section 34 of the Indian Penal Code.

3 At the outset the learned Counsel for the applicant submits

Talwalkar

that in fact, Crime No. 440 of 2015 was registered against the applicant on the basis of statement of Vishwas Thorat at the behest of Mahanagar Cooperative Bank. This Court had an occasion to consider the said allegation in ABA 1614 of 2016 filed by the present applicant. This Court had observed that in the course of investigation, the statement of Sunil Narote was recorded. At that stage, it was contended that although it was Vikas Datta Pawar who is cheated, he has not filed any report against the present applicant and that in fact, Sunil Narote was the Chief Engineer of Pimpri Chinchwad Municipal Corporation. This Court had further observed that there was sufficient material to show that the present applicant and his son had opened fake account by furnishing false, forged and fabricated documents and had misappropriated an amount of Rs. 4,87,00,000/- in the name of non-existent person i.e. Vikas Datta Pawar and had rejected the said application vide order dated 29/9/2016. Learned Counsel for the applicant submits that the applicant had surrendered before the Magistrate and was granted bail.

4 The learned counsel for the applicant vehemently submits that there cannot be second FIR on the basis of the same fact. The learned APP has drawn attention of this Court to an order passed by the Division Bench of this Court(Coram : R.M. Savant and Sarang V. Kotwal, JJ) dated 26th March, 2018, wherein, the Court had observed that the

Court was not satisfied with the investigation carried out in Crime No. 440 of 2015. The Court had an occasion to peruse the charge-sheet in Crime No. 440 of 2015 and therefore, the Court had opined that a separate FIR ought to have been registered by Nigadi Police Station, which have not yet done by Nigadi Police. The Court had passed the following order :

“We accordingly direct the petitioner to approach the Nigdi Police Station on 28th March, 2018 for the said purpose and appear before shri Vijay Kumar Palsule, Senior Police Inspector, Nigdi Police Station, who would do the needful.”

The petition was posted for compliance on 9th April, 2018 and it is in these circumstances that on 28th March, 2018 Crime No. 220 of 2018 has been filed. In the circumstances, this Court is not inclined to go into the merits as to whether the applicant deserves pre-arrest bail in Crime No. 220 of 2018 since a cognisable offence has been registered.

5 In any case, this Court had considered on the last occasion itself that the applicant does not deserve pre-arrest bail, as he had opened fake accounts in the name of non-existing person by furnishing false, forged and fabricated documents.

6 It is also submitted by the learned Counsel for the applicant

that in Crime No. 440/2015, the recovery has been caused and documents have been recovered. Hence, the applicant deserves to be granted pre-arrest bail. However, the said submission is refuted by the learned APP as well as the learned Counsel for the complainant.

7 This Court is of the opinion that mere recovery of incriminating documents would not absolve the applicant of the offence and hence, the applicant does not deserve to be granted pre-arrest bail.

8 Hence, the application being sans merits stands rejected and disposed of accordingly.

[SMT. SADHANA S. JADHAV, J.]