

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

ANTICIPATORY BAIL APPLICATION NO. 856 OF 2017

Bhairavi Raichura ... Applicant

V/s.

The State of Maharashtra ... Respondent

**WITH
CRIMINAL APPLICATION NO. 619 OF 2017
IN
ANTICIPATORY BAIL APPLICATION NO. 856 OF 2017**

Chandresh Jayanti Bhanushali ... Intervener

IN THE MATTER BETWEEN

Bhairavi Raichura ... Applicant

V/s.

The State of Maharashtra ... Respondent

Mr. M.S. Mohite with A.M. Moorthy for the Applicant.

Ms. A.A. Takalkar, APP for the Respondent/State.

Mr. Vishal Kolekar for the intervener.

CORAM : A.S.GADKARI, J.

DATE : 18th JANUARY, 2018

P.C.:

. 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 Mr. Mohite, the learned Counsel appearing for the Applicant, the

learned Counsel for the first informant and the 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 Accused No.1 Mr. Dharmendra Arora is owner of "Mentor Movie Makers" and is also producing television serials. That in October 2015 the accused No.1 Mr. Dharmendra Arora approached the first informant and informed him that the Applicant herein 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 a new partner for the same. The co-accused Mr. Dharmendra Arora also showed him an agreement of Applicant with Doordarshan. It was also informed to the first informant that for every episode which would be telecast on Doordarshan, the Applicant 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 Mr. Dharmendra Arora. As per the first informant, the co-accused Mr. Dharmendra Arora promised him to pay substantial profit on the said amount invested by him. As the Applicant and co-accused did not honour their 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 Applicant 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 number 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 though the basic agreement for production of the said serial is between the Applicant and Doordharshan (Prasarbharati). It is the Accused No.1 Dharmesh Arora who has entered into a separate and distinct agreement/memorandum of understanding dated 13.11.2015 for the production and share of profit derived from therein. He further submitted that a separate account was opened in that behalf and was to be operated by the complainant himself. He further submitted that there is correspondence between the parties inter-se which would lead to draw an inference that, there is novation in the clause of agreement due to which the various accounts were subsequently opened and amounts have been deposited in the said account of Andhra Bank. He submitted that it is the accused No.1 who is

accountable for amount deposited therein and subsequently, disappearance therefrom. He submitted that as a matter of fact in a Civil proceeding, the Applicant has deposited sum of Rs.31,00,000/- in the Registry of this Court as per the directions issued by this Court. He submitted that according to his client, at the most an amount of approximately Rs.17,00,000/- is liable to be paid to the complainant after effecting necessary deductions and taking into consideration the amount deposited by the Applicant in the account of Andhra Bank which was opened and monies were deposited in the said account as per the directions of the complainant himself. He submitted that the Applicant is noway concerned for the alleged amount claimed by the complainant in the first information report. He further submitted that transaction alleged and involved in the present crime is civil in nature and it is apparent from the fact that the first informant has already instituted a civil suit in this Court. He further submitted that the custodial interrogation of the Applicant therefore, is not necessary and the Applicant may be granted pre-arrest bail.

7 Mr. Vishal Kolekar, the learned Counsel appearing for the first informant and learned APP Ms. A.A. Takalkar vehemently opposed the application.

8 A bare perusal of the first information report, would reveal that the Applicant along with co-accused Mr. Dharmendra Arora 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 Nos. 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.

9 The record further indicates that Accused No.1 Dharmendra Arora by his email dated 10.05.2016 directed the Applicant to deposit amount in the account opened in the name of “Mentor Movie Makers” that is the firm of Accused No.1 Dharmendra Arora. It is to be noted here that it is on the basis of the basic agreement which was executed by the Applicant herein with Doordarshan, the accused No.1 and the present Applicant initially represented and subsequently induced the first informant to invest huge amount in their project. 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.

10 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.

11 Application is accordingly rejected.

12 In view of the order passed in ABA No. 865 of 2017, the present application No. 619 of 2017 for intervention does not survive and is also disposed off.

(A.S.GADKARI, J.)