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

ANTICIPATORY BAIL APPLICATION NO. 917 OF 2018

Govinda Yallappa Gunjalkar

Applicant

Vs

The State of Maharashtra

..Respondent

Mr. Shirish Gupte, Senior Advocate a/w Rahul S. Kate for applicant.
Mr. S.S. Hulke, APP for State.

CORAM : A.S.GADKARI, J.

DATE : 2nd July 2018.

P.C.:

1] The applicant is apprehending arrest in CR. No.100 of 2018 dated 10.4.2018 registered with Vasai Police Station, District- Palghar under Sections 384, 386 read with 34 of the Indian Penal Code.

2] Heard the learned Senior Counsel for the applicant and the learned APP. Perused the record of investigation.

3] The first information report is lodged by Shri Imtiyaz Ismail Shaikh. It is stated in the said report that, pursuance to a call given by the Superintendent of Police, District- Palghar pertaining to the people who indulged in extorting money by use of the provisions of Right To Information Act, the present crime is registered. It is stated that, the first

informant started construction of a four storied building on Survey No.187 after purchasing land from Shri Shailesh Solanki. That the concerned Corporation demolished the partly constructed building. The first informant therefore enquired about the same, when it was revealed that the applicant who was the President of Nationalist Congress Party of the said city through the local MLA Shri Anand Thakur had made complaints with the concerned Authorities and in furtherance thereof the said partly constructed building was demolished. The first informant enquired about the said fact with applicant when applicant called him at his office and told that the applicant himself is responsible for the same and he through local MLA Shri Anand Thakur had made the said complaint. The applicant thereafter threatened the first informant that, if he wants to save further construction, he will have to pay Rs.10.00 lakhs and if the first informant makes complaint to the police or to anybody else, he will be killed. The first informant agreed to pay Rs.5.00 lakhs to the applicant and accordingly in November 2016 he paid Rs.2.00 lakhs to the applicant. The informant was scared of the applicant and with a view to avoid further demolition of the constructed work he did not lodge complaint with the police immediately. However, in pursuance of the call given by the Superintendent of Police,

District-Palghar the informant got assurance and therefore he lodged the present first information report.

4] Mr. Gupte, the learned Senior Counsel appearing for the applicant submitted that, the first informant being a builder cannot be expected to wait for about two years to lodge the complaint. That there was no threat of life given to the first informant and therefore Section 384 of the Indian Penal Code cannot be attracted to the present crime. He further submitted that, the first informant has not explained delay in lodging the present crime. He submitted that, as per the first information report itself the Corporation has already demolished the partly constructed building in the year 2015 and therefore there was no question of further saving any construction and inter alia demand of money from the first informant. He submitted that, in view of the ensuing elections and with a view to malign the political carrier of the applicant the present complaint has been lodged which is politically motivated. He submitted that the applicant is not a hardened criminal or extortionist and therefore the first information report needs to be viewed from that angle also. He therefore prayed that the applicant may be protected by pre-arrest bail.

5] The first information report clearly indicates that, there is

specific allegation against the applicant that he through local MLA Shri Anand Thakur caused demolition of the said partly constructed building and by taking undue advantage of his position and prevailing situation demanded a ransom of Rs.10.00 lakhs. Apart from this, the applicant by extending threats of death asked the informant to keep mum. It is due to the reign terror spread by the applicant in the said area, the first informant did not lodge the complaint immediately and after two years he lodged complaint for which he has given satisfactory explanation. It is only after the assurance from the Superintendent of Police, the first informant lodged the present complaint against the applicant and co-accused who indulged in illegal activities of extortion. It is to be noted here that, the applicant is also involved in four other cases at different police stations which are as under:-

- (i) CR No/91 of 2006 registered with Manikpur Police Station under Sections 143, 341, 353 of the Indian Penal Code.
- (ii) CR No.182 of 2010 registered with Manikpur Police Station under Sections 143, 146, 147, 149, 341, 353 of the Indian Penal Code.

(iii) CR No.91 of 2018 registered with Vasai Police Station under Sections 384, 386 of the Indian Penal Code.

(iv) CR No.123 of 2018 registered with Nalasopara Police Station under Sections 384, 386 of the Indian Penal Code.

6] At this stage, the learned APP submitted that the co-accused Dhananjay Gawade is absconding since the date of lodgment of crime and the Investigating Agency has already filed an application under Section 82 of Cr. P.C for proclamation and the same is pending for final adjudication.

7] Thus it is clear that the applicant is a habitual offender and does not deserve sympathy on that count alone. After taking into consideration the record of investigation, serious allegations against the applicant and the gravity of offence, this Court is of the view that the applicant does not deserve to be protected by pre-arrest bail.

Application is accordingly rejected.

(A.S.GADKARI, J.)