FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1172 OF 2017

Anwar M. Khan vs. State of Maharashtra

Office Notes, Office Memorandam of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

Mr. Sayeed M. i/by Anwar N. for the Applicant.
Mr. S.S. Hulke, APP. for the State.

CORAM : A.S.GADKARI, J.
DATE : 31st January, 2018

P.C.

1. By an order dated 13.7.2017 the applicant was granted interim relief.

2. Heard the learned counsel for the applicant and the learned APP. for the State. Perused the record of investigation.

3. The first information report is lodged by Nayyarajam Shaikh. It is stated that the first informant is conducting his business of sale of books at Shop No.11, Mohammed Ali Building, Bhendi Bazar, Mumbai-3 on rental basis. That, since last 8 to 9 years the applicant used to visit his shop.

The prosecution case in brief is that the applicant informed the first informant that the adjoining shop Nos. 2 and 3 which are situated in a building owned by Mumbai Municipal Corporation were to be given on rent by the Corporation. The applicant further represented that he is having acquaintance with the concerned person in the Municipal Corporation and will do the needful. After believing the representation made by the applicant, the first informant paid a sum of Rs.6,70,278/- from time to time to the applicant. The said payment is made either by RTGS transfer in the account of the applicant or in cash. It is alleged that the applicant subsequently gave a receipt allegedly issued by the Mumbai Municipal Corporation pertaining to deposit of Rs.2.00 lacs with the Chief Inspector of Shops and Establishments of the said Corporation dated 16.9.2016. As the informant did not get the possession of the said two shops he enquired about the same with the applicant upon which the applicant dodged him on various occasions. The informant thereafter visited the office of the Municipal Corporation situated at Fort wherein it was informed to him that the said letter given by the applicant is not a genuine one. As the applicant neither gave possession of the said two shop galas nor returned the said amount of Rs.6,70,278/- to the informant, the informant lodged the present crime.

4. The learned counsel for the applicant submitted that there is reference of one Mr. Mohammed Khan in the first information report to whom it is alleged that the applicant introduced him as Commissioner of Minorities, however no such post is in existence and therefore, the said mention in the first information report is a false fact. The learned counsel further submitted that as a matter of fact there were monetary transactions between the applicant and the first informant and the applicant had advanced hand loan to the first informant on earlier occasion. That, the first informant towards the repayment of the said hand loan has made the said payment as mentioned in the first information report. He further submitted that the allegations made by the first informant about the shop numbers situated in the building owned by the Mumbai Municipal Corporation is a story cooked up by the first informant to implead the applicant in a false case. It is further submitted that the transaction between the parties inter-se is civil in nature. The learned counsel for the applicant in support of his contention relied on the decision of this Court in the case of Paresh C. Parekh vs. The State of Maharashtra in Criminal W.P. No.3431 of 2011 dated 5th

October 2012.He submitted that the document involved in the present matter i.e. the alleged false and/or fabricated receipt has already been taken into custody by the Investigating Officer and therefore, the custodial interrogation of the applicant is not necessary. He therefore,prayed that the applicant may be granted pre-arrest bail.

5. A bare perusal of the first information report would reveal that the applicant by making false representation to the first informant induced him to part with the aforestated amount of Rs.6,70,278/. The concerned shop Nos. 2 and 3 mentioned in the FIR are situated in the building owned by the Mumbai Municipal Corporation. It appears that the applicant by taking undue advantage initially made false representation and subsequently induced him to part with the said amount. There is another facet of the present crime. It is alleged that applicant gave the aforestated receipt dated 16.9.2016 to the informant thereby depicting an amount of Rs.2.00 lacs has been accepted by the Mumbai Municipal Corporation from the informant. The investigating agency has to investigate that, from where and how the applicant has manufactured the said receipt and who are the other persons who helped the applicant in the

present crime or whether there is any person from Mumbai Municipal Corporation who initially gave information to the applicant about the availability of the said shop Nos. 2 and 3 in the said building. The learned APP submitted that, there is possibility of some other person also involved in the present crime apart from the applicant in issuing the said receipt allegedly issued by the Mumbai Municipal Corporation. Manufacturing and/or fabricating the bogus receipt of Mumbai Municipal Corporation is undoubtedly a serious offence which requires thorough investigation at the hands of the police and the same is not possible without custodial interrogation of the applicant.

6. In view of the above and 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. The interim relief granted on 13.7.2017 stands vacated.

7. Application is accordingly rejected.

(A.S. GADKARI, J.)