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

ANTICIPATORY BAIL APPLICATION NO.1316 OF 2018

Gangji Dhaarmshi Gothi

..Applicant

Vs

The State of Maharashtra & Anr

..Respondents

Mr. Sunny Waskar for applicant.

Mr. S.S. Hulke, APP for State.

Mr. Ramesh Wagh, P.I., Versova Police Station present.

CORAM : A.S.GADKARI, J.

DATE : 6th July 2018.

P.C.:

1] This is an application under Section 438 of Cr. P.C for pre-arrest bail in CR No.204 of 2018 dated 19.5.2018 lodged with Versova Police Station, Mumbai under sections 420 and 406 of the Indian Penal Code.

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

3] The first information report is lodged by Shri Vijay Nisar, partner of applicant in firm namely Mahavir Constructions. It is the prosecution case that, the informant and applicant had decided to develop a property situated at Nalasopara and therefore the first informant initially

invested a sum of Rs.50.00 lakhs in the said firm. That subsequently the first informant paid a sum of Rs.30.00 lakhs by cash and Rs.4.00 lakhs by cheque to the applicant for the purpose of business. It is alleged that, the said project could not be materialised as it subsequently came to the knowledge of the informant that, there was reservation on the said plot of land. It is alleged that, the applicant thereafter siphoned off funds of the firm amounting to Rs.1,76,40,000/- (One Crore Seventy Six Lakhs and Forty Thousand) and defalcated it. That when the first informant demanded his share back, the applicant threatened him with dire-consequences. In the premise the first information report is lodged.

4] The learned Counsel for the applicant submitted that, this is a plain and simple civil transaction and the applicant has returned most of the amounts to the first informant. He submitted that, the informant has not stated correct and true facts in the report. He further submitted that, the applicant may be given an opportunity to explain the amounts to the Investigating Agency and till that time the applicant may be protected by interim relief. He therefore submitted that the present application may be allowed and the applicant may be protected by pre-arrest bail.

5] The record indicates that, the concerned Investigating Officer, after lodgment of the crime, at least on two occasion called upon the applicant to participate in the process of investigation, by issuing notice under section 41 of Cr. P.C., however, the applicant did not participate in the said process on the ground that the Police may apprehend him. The Investigating Agency has granted sufficient time to the applicant to have his say in the matter.

6] May it as it may, the first information report is self-eloquent and makes out a strong prima facie case against the applicant. After taking into consideration the first information report and other documents of investigation, it indicates that, there is sufficient material available on record to show the clear complicity of the applicant in the present crime.

7] After taking into consideration the material available on record, serious nature of 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.

Application is accordingly rejected.

(A.S.GADKARI, J.)