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

ANTICIPATORY BAIL APPLICATION NO. 644 OF 2018

Riyaz Ahmed Bhati	...	Applicant
Vs		
The State of Maharashtra	...	Respondent

Mr.Aniket Nikam i/b. Mr.Vivek Arote for Applicant.
Mr.Amit Palkar, APP for State.

CORAM : A.S.GADKARI, J.
DATE : 12th March 2019.

P.C.:

1] This is an application under Section 438 of the Code of Criminal Procedure for pre-arrest bail in connection with C.R. No. 67 of 2018 originally registered with Shivajinagar Police Station, District Thane, and now being investigated by Anti-Extortion Cell, Crime Branch, Thane City, having C.R. No. I-50 of 2018 for the offence punishable under Section 143, 147, 148, 149, 363, 384, 386, 452, 506(2) read with 34 of the Indian Penal Code and Section 3, 25 of the Indian Arms Act.

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

3] The First Investigation Report is lodged by Mr.Surojit M. Roy.

It is the case of the prosecution that, the informant is a builder and developer by profession and has a firm, namely, M/s.Roy & Associates. That on 16/04/2008 he entered into an agreement for development with Azad Nagar Stadium View Co-operative Housing Society Limited, Andheri, Mumbai. During the course of his business he further entered into a joint agreement with M/s.Solitar Realtors of Mr.Nitin Dhakkan. It is the further prosecution case that on 19/02/2010 M/s.A.R.K. Developers through its partners Afgan Babu Khan, Kamal Jadwani, Riyaz Bhati (Applicant) and Mr.Khalid further entered into joint venture agreement with certain terms and conditions. In furtherance of their agreement, M/s.A.R.K. Developers were to give 4500 sq.ft. of constructed premises and Rs.1 crore to the informant. That between June 2012 to August 2012, the applicant and his partner Afgan Khan repeatedly threatened the informant for cancellation of the said agreement and for giving his signatures on certain documents, failing which the informant would be killed through gangsters. It is stated that the informant received mobile calls through VOIP phone number from an unidentified person who threatened the informant of serious consequences, if he fails to sign the cancellation of development agreement.

It is the further prosecution case that, in the month of August

2012 at about 10.00 a.m. the applicant along with his other partners and 7 to 8 other associates barged into the office of the applicant at Ambernath and at the point of gun abducted him and took to the officer of Sub-Registrar at Bandra and forcefully took his signature. It is alleged that the applicant threatened the informant with a revolver which was in his hand. It is lastly alleged that the applicant along with other co-accused by threatening the first informant under the point of gun, forced him to sign certain documents. In the premise, the First Information Report is lodged on 15th February 2018.

4] The learned counsel for the applicant submitted that, for an alleged incident occurred in August 2012, crime has been registered much belatedly with due deliberation in February 2018. It is submitted that, the said society i.e. Azad Nagar Stadium View CHS Limited has cancelled the development agreement with the first informant and the said society had negotiated with the firm of the applicant. That when the informant realized that due to his own lapses, he has suffered losses in the business, as an afterthought, he has lodged the present crime. It is submitted that, there is no evidence available on record to show the complicity of the applicant in the crime and therefore, the applicant may be protected by pre-arrest bail

by allowing the present application.

5] I have perused the record of investigation. A witness to the alleged incident of abduction has categorically stated that, the applicant and another co-accused by pointing gun to the informant and by extending threat to kill, abducted him in the year 2012 and the first informant did not come home for about 2 days thereafter. Thus, *prima-facie* there is sufficient corroboration to the statement made by the first informant. The firearms used in the present crime are yet to be recovered by the police. The police are also yet to trace out the person and or persons who extended threats from abroad to the informant. The said mobile number is within the exclusive knowledge of the applicant and co-accused as the said facility of VOIP was utilized by the said gangsters at the instance of the applicant. Undoubtedly, the allegation alleged against the applicant is serious in nature, as he has used firearm and had abducted the first informant from his office.

6] As far as delay in lodging the crime is concerned, it appears from the record that due to the threats received from the gangsters based in foreign countries, the first informant did not gain courage to lodge the crime immediately and it is only after subsiding the effect of threats and

coercion, he gathered courage and has approached the police.

7] In view of the above and after taking into consideration the gravity of the offence and serious allegations against the applicant, this Court is of the considered view that the applicant does not deserve to be protected by pre-arrest bail.

8] Application is accordingly rejected.

(A.S.GADKARI, J.)