

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 776 OF 2019

Mukesh Roy ... **Applicant**

V/s.

The State of Maharashtra ... **Respondent**

Mr.A.M. Saraogi for Applicant.

Mr.S.S. Hulke, A.P.P. for Respondent-State.

Mr.Valmik Dhorkule, PSI, Dr.D.B. Marg Police Station, Mumbai.

CORAM : A.S. GADKARI, J.

DATE : 29th 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. 214 of 2018 dated 10/10/2018 registered with Dr.D.B. Marg Police Station, Mumbai, for the offence punishable under Section 395, 385, 363, 342, 170 read with 34 of the Indian Penal Code and Section 4 read with 25 of the Arms Act.

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

3] The First Investigation Report is lodged by Mr.Shrenik Talesara.

It is the case of the prosecution that, the applicant along with other accused persons abducted the first informant from four wheeler vehicle and took him to Goregaon. That the applicant along with other accused persons threatened the informant to settle the monetary disputes with co-accused Sanjiv Lodha. That the accused persons assaulted the informant and thereafter, demanded Rs.15,00,000/- from him. It is also alleged that for settling the monetary disputes, the accused persons demanded three plots from the informant. In the said incident, it is alleged that the accused persons robbed the informant for his valuables amounting to Rs.2,35,000/-

4] Mr.Saraogi, the learned counsel for the applicant submitted that there is variance in the description mentioned by the informant and in the panchanama recorded by the police pertaining to the scene of offence. It is submitted that the informant and his friend have given description of a room situated at the ground floor admeasuring 10 x 10 ft.. However, the panchanama indicates that the measurement is something different and the place of offence mentioned by the informant

does not tally with the description mentioned in the panchanama. He further submitted that, there is dispute pertaining to the monetary transaction between the first informant and co-accused Sanjiv Lodha and the applicant has been unnecessarily roped in the present crime. It is submitted that the investigation of the present crime is already completed and therefore, custodial interrogation of the applicant is not necessary. He, therefore, prayed that, the applicant may be granted pre-arrest bail by allowing the present application.

5] Per contra, the learned A.P.P. vehemently opposed the application and pointed out the material available against the applicant in the chargesheet. She further submitted that the investigation qua the applicant is yet to be completed and therefore, the custodial interrogation of the applicant is necessary. She, therefore, prayed that the present application may be rejected.

6] It is to be noted here that the applicant is the named accused in the first information report. The informant has categorically alleged that, when the co-accused, namely, Riyan assaulted the informant, the applicant threatened him and directed him to pay the amount or otherwise to give three plots situated in the village of the informant and

also to pay Rs.15,00,000/- towards ransom. The role attributed to the applicant in the present crime *prima-facie* denotes that he has committed an offence under Section 395 and 385 of the Indian Penal Code. The discrepancy as pointed out by the learned counsel for the applicant does not go to the root of the matter, as the informant has pointed out the place to the police where he was kept in confinement after abduction. Even otherwise the informant was kept under fear by the accused persons, when he was abducted by them. The statement of the first informant inspires confidence and is trustworthy. As noted earlier, specific and categorical role has been attributed to the applicant. The investigation qua the applicant could not be completed as he was not traceable to 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 opinion that, the applicant does not deserve to be protected by he pre-arrest bail.

8] Application is, accordingly, rejected.

[A.S. GADKARI, J.]