IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1112 OF 2017

Santosh Hiraji Thakur & Anr. ….Applicants.

Vs.

The State of Maharashtra ….Respondent.

Mr. Niranjan Mundargi a/w Mr. Akshay Udeshi and Mr. Parth Choudhary I/by M/s. Sanjay Udeshi & Co. for the Applicants.
Mr. Amit Palkar APP, for the Respondent-State.
Mr. Nishigandh Patil for the Intervenor.

CORAM : A. S. GADKARI, J.
DATE : 13th MARCH, 2019.

P.C.:-

The Applicants are apprehending arrest in CR No. I-62 of 2017 dated 22nd May, 2017, registered with Sanpada Police Station, Navi Mumbai under Sections 468, 471, 470 r/w Section 34 of the Indian Penal Code

2 Heard the learned counsel for the Applicants, the learned counsel for the first informant and the learned APP. Perused the record of investigation.

3 By an Order dated 30th June, 2017, the Applicants were granted interim relief and were directed to attend the Investigating

Officer on stipulated dates, to join the process of investigation.

4 The first information report is lodged by Shri. Rajendra Bhoir. It is the prosecution case that, the Applicants and the informant were partners of M/s. Swaraj Home Builders and Developers situated at Navi Mumbai. That, the Applicants by preparing forged and/or fabricated Deed of Retirement-Cum-Admission of the informant, made him to retire and inducted Shri. Jaywant Bhoir and Shri. Satendrakumar Mahesh in the said firm. It is also alleged that, the Applicants sold immovable property belonging to the said firm and after receipt of the amount therefrom, defalcated it for their personal benefit.

5 The record indicates that, there were disputes and/or differences between the partners of the said firm and the informant has also withdrawn a sum of Rs.73,00,000/- from the accounts of the said firm without intimating to the other partners. It further appears from the record that, the informant has sold four flats belonging to the partnership firm at a nominal consideration of Rs.1/- and has executed sale-deeds in that behalf. Photo copies of the said sale deeds are placed on record. The record further indicates that the Applicant No.1 is the nephew of the first informant.

6 It is thus apparent that, there are on going financial disputes amongst the partners of the said firm and the informant is also equally responsible for causing monetary loss to the partnership firm.

7 There is another facet to the present crime. Though, the crime is registered on 22nd May, 2017, the Investigating Officer has not taken any pains to verify the record from the Office of the Sub-Registrar of Assurances and/or from the Office of the Registrar of Partnerships, pertaining to the documents involved in the crime.

The Applicants have placed on record the Deed of Retirement, which has been accepted by the Registrar of Partnership. It appears that, the Investigating Officer is loath in conducting the investigation. The ultimate result is that, in the last about 1½ years, the Investigating Officer has done nothing in the present crime.

In this background, he is zealously seeking custody of the Applicants, *prima facie* appears to be, only to extract confession of guilt from them and nothing more than it.

8 For the reasons stated here-in-above interim relief granted on 30th June, 2017, is hereby confirmed. However, the condition to

attend the Investigating Officer of the concerned Police Station is waived.

Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)