

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****ANTICIPATORY BAIL APPLICATION NO. 1700 OF 2018**

Salim Sadruddin Khatib

.....Applicant

Vs.

The State Of Maharashtra

.....Respondent

Mr. S.V. Marwadi I/by V.S. Saxena for the Applicant.

Mr. Ajay Patil APP, for the Respondent-State.

Mr. Nitin Sejpal for the Respondent No.2.

CORAM : A. S. GADKARI, J.**DATE : 25th APRIL, 2019.****P.C.:-**

Heard the learned counsel for the Applicant, the learned counsel for the intervenor and the learned APP. Perused the record of investigation.

2 By an Order dated 28th August, 2018, the Applicant was granted interim relief on the ground that, the learned APP was not having instructions from the Investigating Officer and he had sought time on that count. Thus, the interim relief was not granted on merits.

3 The first information report is lodged by the prosecutrix herself. The prosecution case in nutshell is that, the Applicant was

having acquaintance with the prosecutrix. That, the Applicant represented her that, if the prosecutrix invests funds in his business enterprise, he will give substantial profit to her.

The prosecutrix accordingly invested a sum of Rs.1.34 lakhs in the business enterprise of the Applicant. Halal Loan Agreements dated 8th April, 2011, 1st September, 2011, 1st June, 2012, 15th September, 2012 and other related documents have been duly executed by the Applicant in that behalf. It is further alleged that, taking undue advantage of the situation that, the prosecutrix was alone, on certain occasions the Applicant committed an act as contemplated under Section 354 of the Indian Penal Code. That, when the prosecutrix demanded her money back, it is alleged that the Applicant threatened her with dire consequences by pointing a fire-arm at her. In the premise, the present crime is registered.

4 After lodgment of the present crime, a supplementary statement of the prosecutrix has been recorded by the police. From the supplementary statement, an offence under Section 376 of the Indian Penal Code has been disclosed and therefore, the police have added Section 376 of the Indian penal Code to the present crime.

The learned APP, on instructions, submitted that the police

have also applied Section 420 of the Indian Penal Code to the present crime.

5 The first information report lodged by the prosecutrix and her supplementary statement dated 17th August 2018 are self eloquent and clearly makes out offence under Sections 354, 376, 420 and 506 of the Indian Penal Code.

It appears from the record that, the Applicant after winning over the confidence of the prosecutrix induced her to part with the aforestated huge amount of Rs. 1.34 lakhs and after lapse of time, neither paid the interest accrued thereon, nor refund the said amount. It further appears that, the Applicant by pointing out a fire arm, outraged the modesty of the prosecutrix when she tried to demand her hard earned money back. The said alleged fire arm used by the Applicant is yet to be recovered. Likewise, the amount involved in the present crime is yet to be recovered from the Applicant.

6 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 pre-arrest bail.

Application is accordingly rejected.

6 At this stage, the learned counsel for the Applicant submitted that, the Applicant intends to challenge the present order before the Hon'ble Supreme Court and therefore, the interim relief granted by Order dated 28th August, 2018 may be continued for a period of three weeks from today.

 Mr. Nitin Sejpal, the learned counsel for the first informant and the learned APP, vehemently opposed the said prayer.

7 After taking into consideration the serious allegations against the Applicant and the need of expeditious investigation of the present crime, the said prayer is rejected.

(A.S. GADKARI, J.)