

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1832 OF 2019

Balasaheb Shankar Kalamkar] ... Applicant

Versus

The State of Maharashtra] ... Respondent

Mr. Ganesh Bhujbal, Advocate for the Applicant.

Ms. S.S. Kaushik, APP for the State/Respondent.

PSI B.V. Dodmise attached to Chaturshrungi Police Station, Pune City present.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 22nd AUGUST, 2019.

P. C. :-

1. The applicant is seeking anticipatory bail in connection with C.R.No.621/2019 registered with Chaturshrungi Police Station, Pune City u/sec. 465, 468, 469, 471 of I.P.C.

2. The offence is registered on 01/07/2019 at the instance of one Maruti Kalamkar. Initially, the informant had lodged a private complaint in the Court of J.M.F.C., No.9, Pune. Ld. Magistrate vide his order dated 21/06/2019 directed the police to record the FIR and to conduct investigation u/sec. 156 (3) of Cr. P.C. Pursuant to that order, the FIR is lodged. In the FIR, it is mentioned that, the applicant

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is nephew of the informant. Both of them have an ancestral joint property at Survey No.79, Balewadi Phata, Baner admeasuring 11 gunthas in Plot No.4. Adjacent to their land, one builder M/s. Tejrj Realtors has 54 gunthas of land. In the year 2012, the applicant persuaded the informant to enter into transaction with M/s.Tejraj Realtors (the builder). It was decided that, the builder would give Rs.56 Lakhs to the informant and the applicant, in addition to 50% of the constructed building. It is alleged that, before registration of the document, the applicant had pressurised the builder and had obtained 60% of the proposed construction instead of 50%. On 27/09/2012, the builder had given Rs.50 Lakhs to the informant and the applicant and had got the Power of Attorney executed. Through the Development Agreement the land was taken by the builder. The construction started in the year 2014. The informant used to visit the site. It is mentioned in the FIR that, the applicant was instigating the informant to pressurise the builder in giving larger profit. It is further alleged in the FIR that, the applicant created obstruction in the smooth progress of construction. Because of his obstruction the construction was delayed and the informant was suffering financial losses. When the informant approached the builder, the builder told him that, a

letter was received by the State Bank of India signed by the informant raising objections in respect of the loan. Therefore, the loan amount was substantially reduced affecting the project badly. The informant realised that, few days back the applicant had told him that, the application was made to the bank on behalf of the informant. The informant realised that, the letter was given by the present applicant. The informant had never signed such application and therefore, he lodged the FIR.

3. Heard Mr. Ganesh Bhujbal, Ld. Counsel for the Applicant and Ms. S.S. Kaushik, Ld. APP for the State/Respondent.

4. Ld. Counsel for the applicant submitted that, the applicant has not forwarded such letter to the State Bank of India, neither has he signed it. He submitted that, delay in the project was causing losses not only to the informant but to the applicant as well. Therefore, it does not stand to reason that the applicant would indulge in such activities. He submitted that, the allegations resolve only around one document and signature on such document can easily be compared by taking samples of the applicant as well as of the informant. He

therefore submitted that, the custodial interrogation of the applicant is not necessary.

5. As against these submissions, Ld. APP pointed out that, the applicant's custody would be necessary for obtaining samples of his handwriting. She submitted that, if the hand writing on the disputed document is matched with the applicant, then the offence would be directly connected to the present applicant. She submitted that, the investigation is in the initial stages and therefore custodial interrogation of the applicant is necessary.

6. I have considered these submissions. There is considerable force in the submissions of Mr. Bhujbal that by sending such letters, the applicant would cause loss to himself. The letter was undated. The signature on this letter can easily be compared by sending samples of the hand writing of the informant, his wife as well as the applicant. The applicant can be directed to give samples. Mr. Bhujbal submitted that, the applicant is ready to provide his hand writing sample. In this view of the matter, since the investigation resolves around that particular document and since the hand writing of all the concerned

parties are easily available, the custodial interrogation of the applicant is not necessary. In this view of the matter, following order is passed.

ORDER

1. In the event of his arrest in connection with C.R.No.621/2019 registered with Chaturshrungi Police Station, Pune City, the Applicant is directed to be released on bail on his furnishing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
2. The applicant shall attend the concerned police station from 05/09/2019 to 07/09/2019 between 3.00 p.m. to 5.00 p.m. and shall co-operate with the investigation.
3. Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)