

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1900 OF 2018

Bharat Champalal Parekh, Age 44 years,
Occ.Business, R/o.201, Ganesh Apartment,
M.V.Pandloskar Marg, Vile Parle (E),
Mumbai-400 057.

Applicant

versus

The State of Maharashtra

Respondent

WITH
CRIMINAL APPLICATION NO.1155 OF 2018

Naeem Salim Ansari

Intervenor

In the matter between :

Bharat Champalal Parekh

Applicant

versus

The State of Maharashtra

Respondent

Mr.Rajeev J. Tripathi for applicant.

Mr.Yashpal Thakur for intervenor.

Mr.A.R.Kapadnis, APP, for State.

Mr.D.Patil, API, Juhu Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 29th January 2019

PC :

1. This is an application for anticipatory bail in connection with MECR No.5 of 2018 registered with Juhu Police Station. The case of prosecution is that aggrieved persons Smt.Rupal Shah and Dr.Rutuja Shah were supposed to travel to New Zealand and Singapore in May-2018 and they had asked the applicant to arrange for the foreign currency. Thereafter the informants had approached the applicant and his wife who are dealing in foreign currency business and

handed over cheque of Rs.29,96,762/- by Smt.Rupal Shah. Another cheque of Rs.40,00,252/- was issued by Dr.Rutuja Shah. Both the cheques were handed over to applicant who was running a firm in the name of Shri Vinayak Forex Services Pvt.Ltd. The applicant gave two forex cards of ICICI Bank Ltd to the aggrieved persons. They were totally valued at Rs.24,08,800/-. The applicant thereafter paid 2000 New Zealand dollars and 2150 Singapore dollars to Rupal Shah and 1000 New Zealand dollar and 3050 Singapore Dollars were paid to Dr.Rutuja Shah. The value of said dollars in the Indian currency is Rs.4,10,160/-. It is against the total payment of Rs.69,97,014/-, the applicant had given foreign currency worth Rs.28,18,960/-.

2. The applicant and his wife thereafter executed an affidavit and gave it in writing that balance amount would be paid to the aggrieved persons/complainant.

3. The applicant had preferred application for anticipatory bail before the Sessions Court which has been rejected. It is the contention of the applicant that the liability is admitted by applicant and the dues which are required to be paid to the aggrieved persons is Rs.28,87,492/-. It is submitted that the applicant admits the liability and requires time to make payment of amount. It is therefore prayed that custodial interrogation of the applicant is not necessary. It is also submitted that after execution of the affidavit the applicant had paid Rs.10,00,000/- to the complainant and thus balance amount remained to be paid is Rs.29,87,492/-.

4. Learned APP submitted that except making promises, the applicant has not made any payment towards balance dues to the

victims. It is further submitted that one more case is registered against the applicant by Canara Bank and amount involved is about Rs.9 crores.

5. Learned counsel for intervenor submits that the applicant has been promising of clearance of the balance dues, however, the promises are not fulfilled. Even when the application was pending before the Sessions Court, the applicant had made promises. The application was subsequently rejected by Sessions Court.

6. I have perused the FIR. Admittedly the applicant is supposed to make payment of Rs.29,87,492/- to the complainants. There is no dispute about parting of huge amount to the applicant by victims. Even in the present case the applicant has stated that he would refund the amount back to the aggrieved persons, however, it is noted that promise has been made since long and without fulfilling the same. The factual matrix shows that the amount was received by applicant. He has not fulfilled his commitment and misappropriated said amount. As stated by learned APP, there is one more case registered against the applicant, which is under investigation. Considering the aforesaid facts, no case for grant of anticipatory bail is made out. Hence, Criminal Anticipatory Bail Application No.1900 of 2018 is rejected. Criminal Application No.1155 of 2018 is disposed off.

(PRAKASH D. NAIK, J.)

MST