HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1907 OF 2018

M/s Seizetech Antique Pvt. Ltd and Others … Applicants
Versus
The State of Maharashtra … Respondent

Mr. R. R. Mishra, Advocate for the Applicants.
Mr. Sanjeev Kadam I/b Mr. Swapnil R. Patil, Advocate for Respondent no. 2.
Ms. S.S. Kaushik, APP for the State/Respondent.
Mr. Nilesh R. Idhate, PSI, EOW,-II, Navi Mumbai.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 28th JUNE, 2019.

P. C. :-

1. The applicants are seeking anticipatory bail in connection with CR. No. 119/18 registered with Kalamboli Police Station under Sections 420 read with 34 of the IPC. The FIR is lodged by one Ashfaq Khamse on 17th July 2018.

2. According to him, he was in the business of building constructions. He has his office at Khopoli. During the course of his business he came in contact with applicant no. 3 Anil Sali. It is the case of the first informant that the applicant no. 3 represented to him that he was one of the directors of Seizetech Antique Private Limited. It is the case of the first informant that the applicant no. 3 represented to

him that their company was purchasing one special metal known as R.P. That metal had very high profit if sold in foreign countries. The applicant no. 3 asked the first informant to go to Kolkata to know more details about it. In March 2017, the first informant went there, where he was shown a metal piece weighing 500 gm. That metal piece was supposed to be the RP metal. He was informed that, that metal was high radiation quotient. He was also told that to protect from that metal one chemical has to be purchased and for which the applicant had to deposit a large amount. According to the first informant he deposited amount of Rs. 64,25,000/- through RTGS in the applicant's company account. Similarly from time to time first informant has also deposited Rs. 44,75,000/- with the applicant no.3. Thus, in all the first informant paid large amount to the applicants. Thereafter, neither the money was returned nor the said metal was given to the first informant and therefore, this FIR was lodged.

3. Heard, Mr. Mishra, learned counsel for the applicants, Mr. Kadam for respondent no. 2 and Ms. Kaushik, learned APP for the State.

4. Mr. Mishra submitted that prior to filing of this FIR the applicants themselves had filed a complaint before JMFC, Barackpore

against the present applicant, which had resulted in lodging of the FIR. That complaint was lodged on 12^{th} June 2018. He therefore, submitted that by way of counter case this FIR was lodged by the first informant. He also pointed out that the applicant had filed a civil suit for specific performance against the present applicant. He pointed out the avarements made in the complaint as well in the civil suit filed by the applicants. Perusal of the complaint and the civil suit shows that they were in respect of some antique piece which was sold to the third party. Even both the complaint and civil suit dos not show that the first informant made the applicants part with any money in that transaction. The only allegation in those two documents i.e. the complaint and the civil suit is that the first informant had taken amount of rupees more than 20 lacs from the applicant no. 3, which was not repaid. The allegation in the complaint filed by the applicants as well as the civil suit lodged by them are not supported by any concrete material. As against that, the first informant's case is supported by the bank statement showing RTGS transaction. The learned APP on instructions makes a statement that such RTGS transaction was verified during investigation. Therefore, there is sufficient material against the present applicants. The learned APP pointed out that though the FIR is lodged in July 2018, the first informant had already made his grievance before the EOW on 29th May 2018. No case is made out for anticipatory protection. Hence, application is rejected. At this stage, the learned counsel for the applicant prays for continuation of interim protection. Request is rejected.

(SARANG V. KOTWAL, J.)