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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY***

***CRIMINAL APPELLATE JURISDICTION***

*ANTICIPATORY BAIL APPLICATION NO.2709 OF 2018*

Javed Md. Hanif Shaikh @ Mohd. Sabrati
Md.Hanif Shaikh @ Javed Ashrafi ..Applicant.
V/s.
The State of Maharashtra & Anr. ..Respondents.

Mr.Mukesh H. Ahooja for the applicant.

Mr.S.S.Hulke, APP for the respondent-State.

***CORAM : NITIN W. SAMBRE, J.***

***DATE : FEBRUARY 1, 2019***

**P.C.:-**

Heard learned counsel for the applicant and learned APP for the State.

2. In crime No.I-267/2018 for offence punishable under sections 406,. 420 and 120(B) of the Indian Penal Code registered with Mumbai Naka police station, Nashik Road, the applicant is seeking pre-arrest bail.

3. It is the case of that prosecution that the applicant conspired with other co-accused Abdul Matin and used to secure

air tickets and visas on credit for his passengers / customers from the complainant and defrauded the complainant for an amount of more than Rs.1.75 crores.

4. Learned counsel for the applicant submits that the F.I.R. speaks of very vague attributions against the applicant. According to him, the applicant was operating two tours and travels business by name Al-Khair Tours and Travels and Jahan International Tours and Travels. He submits that air ticket bookings were received from prospective customers during Haj Umrah and the amounts received by the applicant was transmitted to the complainant. According to him, if there are short payments, same could be looked into and for settling the accounts, negotiations can be initiated. However, there is no element of criminal intention on the part of the applicant to defraud, cheat or conspire with the other co-accused. He would then urge that the offence is arising out of a business transaction and the same could be looked into as a contractual dispute, for which custodial interrogation of the applicant is not required. He submits that the applicant is entitled to be released in the event of his arrest.

5. *Per contra*, learned APP invited my attention to the

mode and manner in which the applicant has conducted himself as is reflected in the complaint lodged by Ashfaq Ramzan Pathan of Al-Khair Tours and Travels from whom the applicant has purchased air tickets on credit. Learned APP submits that the said complainant started his business some time in the year 2017 and the applicant promised huge business and created his goodwill by initially making regular payments against the tickets booked. He would then invite attention to the conduct of the applicant as to transactions in April, 2017, August, 2017, November, 2017, etc. so as to substantiate the case of conspiracy with other co-accused. According to him, the total amount of fraud involved in case in hand is still under investigation. However, till date, it is to the tune of Rs.1.77 crores and above. According to him, since the offence is an economic one and very serious in nature, the applicant does not deserve any protection from this Court.

6. Considered rival submissions.

7. In the business transaction between the applicant and the complainant, differences arose between the applicant and the complainant on the issue of payment of air tickets which were released by the complainant in favour of the passengers /

customers sponsored by the applicant.

8. The entire business transaction is in black and white. The applicant initially conducted himself by making regular payments to the complainant as against the air tickets booked and released and earned goodwill and trust of the complainant.

9. After having gained the confidence of the complainant, the applicant got huge tickets for air travel in favour of the customers after having received charges to that effect, however had not parted with the same in favour of the complainant.

10. There is sufficient material to infer conspiracy and involvement of the applicant in the serious economic offence.

11. Necessary ingredient for offence punishable under sections 406, 420 and 120B of the Indian Penal Code can be *prima facie* made out against the applicant. The applicant after having conspired with other co-accused, defrauded the complainant for more than Rs.1.75 crores.

12. For the aforesaid reasons, in my opinion, no case for grant of pre-arrest bail is made out. The application fails and is rejected.

***(NITIN W. SAMBRE, J.)***