

Vaishali
A. Tikam

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1081 OF 2020

Suhas Guappa Humbarwadi and Anr. ...Applicants
Vs.
The State of Maharashtra ...Respondent

* * * * *

Mr. Kiran Kulkarni a/w. Twinkle Nagda i/b. Kulkarni &
Associates for Applicants
Mr. J.P. Yaganik, APP for the State

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CORAM :- MADHAV J. JAMDAR, J
(VACATION COURT)
DATE :- DECEMBER 28, 2020.

P. C.:

1. This is an application seeking pre-arrest bail in
C.R. NO. 1461 of 2020 registered with Sadar Bazar Police
Station at Solapur.

2. A bare perusal of the FIR reveals that an amount of Rs.30,00,000/- were paid from time to time by the Informant to the accused for purchase of flat. However, the said transaction was not completed and in the meanwhile certain disputes arose between the Applicants and the Informant. Thereafter compromise was arrived between them and it was decided that the said amount of Rs.30,00,000/- and additional amount of Rs.25,00,000/- towards compensation would be paid by the Applicants to the Informant. It appears that the cheque of Rs.55,00,000/- issued by the Applicants to the informant was dishonoured and, therefore, the FIR under Section 420 r/w. 34 of the Indian Penal Code was lodged on 10.11.2020.

3. The Applicants filed application for anticipatory bail bearing Criminal Bail Application No. 1372 of 2020 before the Hon'ble Sessions Judge of Solapur at Solapur. While rejecting the said anticipatory bail application, the Learned Additional Sessions Judge, Solapur in his order dated 14.12.2020 specifically observed in paragraph 9 that

the allegations in the FIR and the transactions taken place in between the Applicants and the Informant are prima facie entitled the Applicants/accused to get anticipatory bail. However, it is further observed that the Informant has filed his affidavit at Exhibit 11 and pointed out that about 11 cases are pending against the Applicants/Accused and in three cases non-bailable warrant was issued against the Applicants/Accused.

4. The learned counsel for the Applicants point out that the observation in the order of Learned Additional Sessions Judge, Solapur that 11 cases are pending against the Applicants and out of which, in 3 cases, N.B.W. were issued is not correct. He has produced a chart of all these 11 cases. He submits that the Learned Additional Sessions Judge, Solapur has stated that N.B.W. were issued against the Accused - Applicant No.1 in STC No. 3162/2014, STC No. 730/2016 and STC No. 164/2015. As far as STC No. 730/2016 and STC No. 164/2015 are concerned, the offence is under Section 138 of the Negotiable Instruments Act and the learned counsel for

the Applicants states that the N.B.W is not issued in those matter. As far as the offence in STC No. 3162 of 2014 is concerned, the same is under Section 74 of the Maharashtra Value Added Tax, 2002 and the Learned Advocate of the Applicants makes a statement that N.B.W is not issued in that matter also.

5. It is to be noted that as far as 11 cases are concerned, 9 cases are arising out of Section 138 of the Negotiable Instruments Act, 2009 and one case is as stated earlier is arising out of offence under Section 74 of the Maharashtra Value Added Tax, 2002. So far as R.C.C No. 661 of 2018 is concerned, the offence is under Section 406, 420, 445, 467, 476 and 471 of IPC and the same is a private complaint where the proceedings are pending on Report under Section 202. Thus, it is clear that the pendency of the said case will have no bearing on this case.

6. As far as the present case is concerned, prima facie it is a civil dispute which has been converted into a criminal case. Therefore, in this case, the Applicants are entitled for

anticipatory bail.

7. Thus, I pass the following order:

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest, the Applicant viz. Suhas Gurappa Humbarwadi -Applicant No.1 and Swapnil Mohan Ghorpade – Applicant No.2 are entitled for release on bail in respect of FIR No. 1461 of 2020 registered with Sadar Bazar Police Station, Solapur on executing P.R. Bond of Rs.50,000/- each and on furnishing one or more sureties of like amount by each of the Applicants.
- (iii) The Applicants shall present themselves before the Sadar Bazar Police Station, Solapur as and when summoned by the Investigating Officer and cooperate with the investigation.
- (iv) The Applicant shall not directly or indirectly make any inducement, threat or promise to any person

acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and shall not tamper with the prosecution witness.

- (v) Anticipatory bail Application No. 1081 of 2020 is disposed of in the aforesaid terms.

7. This order shall be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned shall act on production by fax or email of the digitally signed copy of this order.

(MADHAV J. JAMDAR, J.)