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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.668 OF 2018**

Ritesh M. Ranka .. Applicant
vs.
The State of Maharashtra and anr. .. Respondents

**WITH
ANTICIPATORY BAIL APPLICATION NO.667 OF 2018**

Mulchand K. Ranka and ors. .. Applicants
vs.
The State of Maharashtra and anr. .. Respondents

Mr. Girish Kulkarni a/w Mrunmai Kulkarni I/b. Mr. Aditya Mithe for
the Applicant in both matter.

Smt. J.S. Lohakare, APP for the State.

Mr. Niranjana Mundargi a/w Mr. Kuldeep Nikam, Mr. Nikhil Wable, Mr.
Priyanka Daga and Ms. Juhi Valia I/b. Jayakar & Partners for
Respondent No.2/Intervener.

CORAM : M.S.KARNIK, J.

DATE : SEPTEMBER 13, 2021

P.C.

Heard learned counsel for the parties.

2. These are the Applications for grant of pre-arrest bail in connection with C.R. No.132 of 2018 registered with the Juhu Police Station, Mumbai, for the alleged offences punishable under Sections 379, 419, 406, 420, 448, 464, 465, 466, 467, 468, 471 and 120(B) of the Indian Penal Code, 1860 (for short 'IPC').

3. The parties submit that they have arrived at an amicable understanding. Briefly, the dispute is regarding the partnership which was entered into between the Applicants (original Accused) and the first informant. It is the contention of the first informant that the property in question belonged to her family. The accused were to develop the property. Pursuant to the joint venture agreement, the property was to be developed in partnership and an agreed share in the partnership was given to the first informant. Over a period of time, by various supplementary agreements, the composition of the partnership and the share structure underwent a change is the contention of the Applicants. It is the case of the first informant that she was cheated and without her knowledge her share was reduced. The Applicants have siphoned off moneys which should have rightfully come to her share. Even the flat which was agreed to be given to her was of a lesser area. It is the informant's case that the accused took advantage of her being a lady of an advanced age. The dispute so far as the partnership claims are concerned and the entitlements thereunder are already a subject matter of arbitration which is pending before the Arbitrator.

4. The averments in the Applications indicate that the parties shared cordial relations initially, but the relationship started deteriorating. The parties agree that the question whether the first informant is entitled for the claim she has made is a subject matter of arbitration and will be decided in the course of arbitration.

5. Learned counsel for the Applicants, on instructions graciously submits that without prejudice to the rights and contentions of the parties in the arbitration, considering the long standing cordial relationship shared by the parties, the Applicants are willing to secure the first informant-Indu Anil Ashar in the sum of Rs.10 Crores. Mr. Kulkarni, learned counsel, on instructions of Mr. Ramesh Ranka, one of the partner, who is present in the Court, undertakes that a sum of Rs.10 Crores will be deposited in a nationalised bank as directed by the Arbitrator. Both the parties agreed to appear before the Arbitrator on 28.09.2021, when a joint request will be made for investing the said amount in the nationalised bank or in any other manner the Arbitrator deems fit, till the disposal of the arbitration proceedings. The said amount will be deposited within one year from 28.09.2021 as per the scheduled fixed by the Arbitrator. In terms of the directions of the Arbitrator, learned counsel for the Applicants on instructions submits that the amount of Rs.10 Crores in favour of the first informant will be invested within the time stipulated.

6. Learned counsel for the Applicants on instructions further submits that irrespective of the decision in the arbitration proceedings, the Applicants and the other partners have no objection, if the said amount of Rs.10 Crores which is for the benefit of the first informant- Indu Anil Ashar, is handed over to her. The only apprehension is that Indu Anil Ashar being an old lady, the amount should go to her and no one else. Undoubtedly, the

Arbitrator will take care of this concern when the arbitration proceeding is finally decided. Counsel for Applicants submit that undertaking to the above effect and complying with the statements made herein will be filed by all the partners of the partnership firm within one week from today.

7. Mr. Mundargi, learned counsel on behalf of the first informant on instructions agrees and accepts that in the event the claim granted in the arbitration is more than the amount of Rs.10 Crores and the accrued interest thereon till that date, in that event this amount of Rs.10 Crores with accrued interest will be adjusted and set off to that extent will be given by the Arbitrator. However, it is again clarified that in the event the claim granted in favour of the first informant- Indu Anil Ashar by the Arbitrator is less than the amount of Rs.10 Crores or no claim is awarded, even then, the first informant- Indu Anil Ashar will be entitled to retain the amount of Rs.10 Crores along with accrued interest which will be paid over to her after arbitration proceedings are decided. This statement is made on instructions. The Applicants agree and it is clarified that the amount of Rs.10 Crores with accrued interest will be paid over to the first informant- Indu Anil Ashar and any Appeal or other proceedings that may be filed challenging the award will not be an impediment for withdrawing the said amount of Rs.10 Crores by the first informant.

8. Considering that the disputes appear to be of a civil nature, in view of the stand taken by the Applicants which is agreeable to

the first informant, in my opinion, the Applicants can be released on pre-arrest bail. Further, it is seen that the Applicants were granted interim protection by this Court since 03.05.2018. Learned counsel for the Applicants submits that the Applicants have co-operated with the investigation. Learned APP disputes this. She says that the original of the balance sheet and the other documents are not produced. Learned counsel for the Applicants submits that they are willing to co-operate with the investigation and submit necessary documents demanded. Hence, the following order :-

ORDER

- (i) The parties to abide by their statements which have been recorded herein above.
- (ii) The interim order dated 03.05.2018 passed by this Court is confirmed.
- (iii) In the event of the arrest of the Applicants in connection with C.R. No.132 of 2018 registered with the Juhu Police Station, the Applicants shall be released on bail on furnishing P.R. Bond in the sum of Rs.25,000/- each with one or more sureties in the like amount.
- (iv) The Applicant in Anticipatory Bail Application No.668 of 2018 shall report to the Investigating Officer of the concerned Police Station on 23rd, 25th and 27th September, 2021 between 10.00 a.m. and 12.00 noon.
- (v) The undertakings be filed in this Court by all the partners of the partnership firm in terms of the statements made herein before within a period of one week from today.

(vi) Learned counsel for the Applicants on instructions submits that the amount of Rs.10 Crores will be deposited within one year as per the schedule fixed by the Arbitrator.

9. The Anticipatory Bail Applications are disposed of.

(M.S.KARNIK, J.)

Digitally
signed by
PRADNYA
MAKARAND
BHOGALE
Date:
2021.09.16
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