IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1302 OF 2018

Mr.Nikhil Uday Kumar Singh .... Applicant
Vs.
State of Maharashtra ..... Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO. 900 OF 2018

Uday Kumar Singh .... Applicant
Vs.
State of Maharashtra & anr. ..... Respondents

Mr.Kuldeep S.Patil, for the Applicants in both ABAs.
Mr.N.B. Patil, APP for the Respondent – State.
Mr.Ranjit B. Chavan - API, Kasturba Marg Police Station, Mumbai.

CORAM : M. S.KARNIK, J.

DATE : 09th AUGUST, 2021

P.C. :

. Heard learned Counsel for the applicants. By these Applications, applicants seeks pre-arrest bail in connection with C.R. No. 171 of 2018 registered with Kasturba Marg Police Station for the offences punishable under Sections 406, 420 r/w 34 of IPC. It is the case of the applicants that the applicant 'Uday' was the partner of 'Nirman Developers'. The applicant in ABA/1302/2018 has invested almost Rs. 20 lakhs in the partnership firm. In lieu of this investment, the applicant (Nikhil) was permitted to sell two flats. Accordingly, the consideration received from the sale of these two flats to the tune of Rs.10,87,125/- was deposited in the account of the firm.

2. It is the case of the prosecution that without the other partners having any knowledge, the applicant - Nikhil i.e. the applicant in ABA/1302/2018 who happens to be Uday's son, opened an account in the name of firm. In the application, it is alleged that this was done by father and son only with a view to deprive other partners the benefit of the sale proceeds arising from the sale of the flats.

3. Learned Counsel for the applicants submitted that the applicant in ABA/900/2018 i.e. 'Uday' has invested more than 50 lakhs in his capacity as a partner of the partnership firm. The allegations are that son -' Nikhil' opened a bank account in the name of the partnership firm. The money to the tune of Rs.10,87,125/- belonging to the partnership firm was deposited in this account. It is not in the dispute that out of an amount of Rs.

10,87,125/-, an amount of Rs.5,30,000/- has been reverted back in the account of the firm. Learned Counsel for the applicants submitted that this amount in fact does not belong to the firm, but is the return from the investment that was made by the applicant - Nikhil in the business of the partnership firm. It is always open for the applicant in ABA/1302/2018 to resort to the appropriate remedies to recover the agreed returns on his investment that he has made in the partnership firm. However, so far as the amount of Rs. 10,87,125/- is concerned, which has been deposited in the account of the partnership firm opened by Nikhil in respect of which it is alleged that other partners had no knowledge of, learned Counsel for the applicant submits that to show his bonafides and without prejudice to the rights and contentions, 'Nikhil' (applicant in ABA No. 1302 of 2018) is willing to deposit the balance sum of Rs.5,57,125/- in this Court within a period of 6 weeks from today. Statement is accepted. Learned APP is granted permission to move an application for transfer of the amount to the concerned trial Court after the charge-sheet is filed.

4. Learned App on instructions of the Investigating Officer says that charge-sheet would be filed within a period of 8 weeks from today. It is open for the trial Court to pass

appropriate orders in respect of the deposit made. This does not appear to be a case where custodial interrogation is called for.

5. The applicants therefore deserve to be granted pre-arrest bail. The applicants are granted interim protection since 27/04/2018 and have co-operated with the investigation. Hence the following order.

O R D E R

(i) Application is allowed.

(ii) In the event of arrest of the applicants in connection with C.R. No. 171 of 2018 registered with Kasturba Marg Police Station, applicants be released on bail on their furnishing P.R. bond of Rs.25,000/- each with one or two sureties in the like amount.

(iii) The applicants shall report to the Investigating Officer as and when called for.

(iv) The applicants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

(v) The applicants shall furnish any changed mobile number or report any change of his residential address to the Investigating Officer.

(vi) Statement recorded in paragraph 3 is accepted & the applicants to abide by the same.

6. Application is disposed of.

(M.S.KARNIK, J.)