

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1558 OF 2021

Dilip Gangji Shah	Applicant
versus	
The State of Maharashtra	Respondent

WITH
INTERIM APPLICATION NO.2108 OF 2021

Gouri Shankar Parida	Intervenor
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In the matter between :

Dilip Gangji Shah	Applicant
versus	
The State of Maharashtra	Respondent

Mr.Vivek S. Babar, Advocate for applicant.

Mr.Y.Y.Dabake, APP, for State.

Ms.Meghna Gowlani, Advocate, for intervenor.

PSI Yogesh B. Pardeshi, Vashi Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 27th September 2021

PC :

1. This is an application for anticipatory bail in CR No.171 of 2021 registered with Vashi Police Station for offences under Sections 448, 454, 457, 380 and 425 of Indian Penal Code.

2. The FIR was registered on 11th May 2021. The grievance of the complainant is that the complainant is the owner of company named M/s.WinDNA Life Science Pvt.Ltd. It was registered in 2019. The company was involved in conducting DNA tests and providing nutraceutical supplements. The company was in need of premises on

leave and license basis. The complainant agreed to join complainant's company. He was offered post of Sales Director of the company. An estate agent was contacted for search of premises. On 27th November 2020 the premises at Vashi was inspected. The applicant, broker and Raj Jaiswal were present. The leave and license agreement was executed on 1st December 2020. Amount of Rs.1.50 lakh was transferred to the account of applicant. The license fee of Rs.52,800/- was also transferred. Rent up to February 2021 was paid to the applicant. Subsequently the applicant represented that he intends to sell the office premises and told the complainant to vacate the premises. Notice was sent on whats app. It was also sent through post. According to the complainant, the agreement was for three years and there is locking period of one year. The complainant had incurred expenses for renovating the office which should be returned to him. Thereafter the applicant made repeated calls to complainant and insisted for vacating the premises. The complainant had informed the applicant to proceed in accordance with the terms of agreement executed between the parties. On 19th May 2021 the lock of the office was broke opened and some persons entered in the premises. Subsequently the complainant learned from Raj Jaiswal that the lock was changed by the accused. Thus, the accused had entered into the office premises. The articles belonging to the complainant were taken away. Hence, the FIR was registered.

3. Learned advocate for applicant submitted that allegations in the FIR are false. The dispute is purely of civil nature. Raj Jaiswal who is referred to in the FIR, is having criminal antecedents. The amount of Rs.15 lakh was demanded from applicant. The inventory of the articles lying in the premises was prepared and articles were

handed over. The previous orders passed by this court indicate that learned APP was directed to verify the facts alleged in the letter dated 28th May 2021 addressed by applicant to Senior Police Inspector, Vashi Police Station. Learned APP was also to verify the nature of offences registered against Raj Jaiswal as pointed in the letter and primary activity of company. Learned counsel further submitted that the complainant's company was not involved in conducting DNA tests. The applicant has relied upon information available on website in relation to complainant's company, which do not mention anything about DNA test and it refers to the fact that company is in the field of preparing other articles. Custodial interrogation of the applicant is not necessary. There are criminal antecedents against complainant. About nine cases were registered against him. One case is registered against complainant at Bhuvaneshwar.

4. Learned APP submitted that leave and license agreement was executed with complainant. In the event applicant was in need of premises, he was required to follow due process of law. There were remedies available in law to take possession of premises. The applicant is not supposed to commit breach of law and indulge in the acts as mentioned in the FIR. The articles which are mentioned in the inventory produced by the applicant, do not tally with the articles of complainant. It is also submitted that the antecedents of Raj Jaiswal were verified. There were cases registered against him.

5. Learned counsel for complainant opposed grant of anticipatory bail. It is submitted that the complainant had incurred heavy expenses in renovating the premises. Undisputedly the agreement

was executed with the applicant for letting out the premises. The period of license stipulated in agreement was in force. There was one year's locking period. The notice dated 30th March 2020 was forwarded by the applicant which was replied. The CCTV which was installed in the premises, was demolished. The articles were taken away. The leave and license agreement was executed by the complainant with applicant. Raj Jaiswal was employee of complainant's company.

6. I have perused the FIR and other documents. Both the sides have claims against each other. Apparently there was a leave and license agreement between the complainant and the applicant. The allegation is that the complainant was dispossessed of the premises and the said premises was sold to some other person. It also appears that the applicant had indicated to the complainant that he intends to sell the premises and was insisting the complainant to vacate the premises. Raj Jaiswal was the director of complainant's company. It appears that there are some complaints registered against him. The applicant has prepared some inventory of articles and there is dispute about the articles mentioned in the inventory. Looking at the nature of dispute, custodial interrogation of applicant is not necessary. Hence, I pass following order :

ORDER

- (i) Anticipatory Bail Application is allowed and disposed of;
- (ii) Interim order dated 7th July 2021 is confirmed;
- (iii) In the event of arrest of applicant in CR No. 171 of 2021 registered with Vashi Police Station, the applicant be released on bail on his executing PR bond in the sum of Rs.30,000/- with one or

more sureties in the like amount;

(iv) The applicant shall appear before Investigating Officer as and when called for till filing of charge sheet;

(v) Interim Application is disposed of.

(PRAKASH D. NAIK, J.)

MST