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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2407 OF 2021**

Alpeshbhai Bhagvanbhai Patel

.... Applicant.

V/s

The State of Maharashtra & Anr

.... Respondents

Mr. Shirish Gupte, Senior Advocate i/b Mr. Birjesh Pathak for the Applicant.

Mr. A.R. Kapadnis, APP for the State.

Mr. J. Shekhar, Spl PP for the State.

CORAM: NITIN W. SAMBRE, J.

DATE: OCTOBER 07, 2021

P.C.:-

1] Applicant accused, a Havala Operator, who has accepted/collected an amount of bribe/protection money from businessmen, is seeking pre-arrest bail in Crime No. 971 of 2021 registered with Goregaon Police Station for the offence punishable under Sections 384, 385 read with Section 34 of the Indian Penal Code and then re-registered as C.R. No.71 of 2021, D.C.B., C.I.D. at Police Station Unit -11, D.C.B. C.I.D.

2] The case of the prosecution against the Applicant, in brief, is as

under:-

3] Co-accused Sachin Vaze, a police official used to act as collection agent on behalf of the then Commissioner of Police of Mumbai Mr. Parambir Singh. The said collection used to be carried out by Mr. Vaze after having received information about working details of various businessmen such as bookies, restaurant and bar operators etc. Co-accused Sumit Singh, Vinay Singh and Riyaz Bhati, while acting in aid of aforesaid accused persons, extorted money from the aforesaid businessmen for providing protection in their illegal activities/illegal business. Alleging that two mobile phones of Samsung Company were forcibly collected through the informant, and from one Aniket Patel and also amount of Rs 9 lakhs, complaint came to be lodged. It is specifically alleged in the prosecution case that at the behest of Sachin Vaze, Assistant Police Inspector working for Mumbai Police, an amount of Rs 35 lakhs was extorted from Manan Nayak through intervention of the complainant under threat.

4] Mr. Gupte, learned Senior Counsel appearing for the Applicant/Accused would urge that Applicant's custodial interrogation is not

required as the offence is punishable at the most with the period of three years. Applicant is very much available for investigation and there are no criminal antecedents.

5] Mr. Gupte would also urge that statement of complainant cannot be relied on for prima facie implicating the Applicant in the crime considering his past conduct. He would further invite attention of this Court to regular bail granted to co-accused who are named in the FIR.

6] Mr. J. Shekhar, learned Spl PP, while opposing the prayer, would urge that statement of the witnesses, apart from complaint, prima facie implicate the accused in the offence in question. According to him, even if the offence is punishable maximum with the period of three years, what is required to be noted is seriousness of the offence. According to him, for further investigation, custodial interrogation of the Applicant is necessary so as to find out very period for which Applicant has acted as collection agent of extorted money for corrupt police officials. That being so, Application is liable to be rejected.

7] Considered rival submissions.

8] The FIR which is lodged in detail by the complainant specifically speaks of the act of the police officials like Sachin Vaze and Parambir Singh of indulging into extortion of money from businessmen, and particularly from such businessmen who are into illegal business like match fixing, illegal operation of bars such as dance bars etc. It appears that at the behest of witness Manan and Kedar Pawar, present Applicant is specifically named to have accepted amount of extortion money. Tenor of the FIR does not speak of an isolated incident but longstanding past involvement of the Applicant in the matter of collection of extortion money at the behest of police officials such as the then Commissioner of Police Parambir Singh and Assistant Police Inspector Sachin Vaze. As such, learned Spl. PP, in my opinion is justified in claiming that so as to find out very role played by the Applicant in the past in serious offence of collection of money of extortion for and on behalf of senior police officials, custodial interrogation is very much necessary. Apart from above, there is strong material on record in the form of statement of witnesses to implicate the Applicant in crime in question. What is required to be

noted is, Applicant who should have been proceeded against in the offence of money laundering/Havala by police officials, were his clients and as such Applicant appears to have acted under very protection of police officials in the matter of carrying out business of Havala/collection of extortion money. Merely because other co-accused are released on regular bail, that by itself will not strengthen the case of the Applicant i.e. custodial interrogation is not required.

9] In the aforesaid background, no case for grant of pre-arrest bail is made out. Application as such fails and same stands rejected.

10] The learned Senior Counsel for the Applicant submits that since the Applicant intends to approach the Apex Court, he be granted interim protection from arrest for a period of two weeks. Prayer is strongly opposed by the learned Spl PP. In the backdrop of aforesaid reasons, in my opinion, no case for grant of such protection is made out. Prayer for interim protection stands rejected.

(NITIN W. SAMBRE, J.)