

BDP-SPS-TAC

BHARAT
DASHARATH
PANDIT

Digitally signed
by BHARAT
DASHARATH
PANDIT
Date:
2021.12.10
11:42:38 +0530

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2746 OF 2021**

VINAY RAMNARAYAN SINGH @ BABLU Applicant.
V/s
THE STATE OF MAHARASHTRARespondent

Mr. Aniket Nikam i/b Mr. Girish Jain for the Applicant.
Mr. Shekhar Jagtap, Spl. P.P. a/w Ms. A.A. Takalkar, APP for the State.
IO Vishal Patil, DCB, CID. Unit XI, Mumbai, present.

CORAM: NITIN W. SAMBRE, J.

DATE: DECEMBER 08, 2021

P.C.:-

1] Applicant is seeking pre-arrest bail in connection with FIR No.971 of 2021 registered with Goregaon Police Station and thereafter transferred to DCB CID UNIT-XI, bearing C.R. No.71 of 2021 for the offences punishable under Sections 384, 385, 388, 389, 34, 120B of the IPC.

2] Prosecution case against the Applicant is, Applicant has acted in aid of other accused, who are public servants in the matter of extortion.

3] In the aforesaid backdrop, while trying to make out a case for

bail, Mr. Nikam, learned Counsel for the Applicant would urge that very character of the complainant itself is under cloud, as he himself is an accused in various crimes of similar nature. His further contention is, proclamation issued against the Applicant is already set aside to the extent of publication of the same and as such Applicant is very much available. He submitted that Applicant is falsely implicated out of business rivalry with the complainant, as Applicant is in very same business i.e. of running of hotel. That being so, he submitted that Applicant is entitled to be released on bail.

4] Apart from above, Applicant has claimed parity with the co-accused Param Bir Singh and has sought support from the orders of the Supreme Court passed on 22/11/2021 and 6/12/2021 in SLP (crl). No.8788/2021. As such, contentions are, Applicant can attend the Investigating Officer, provided he is granted protection, which is a cause why he has not honoured the notice issued under Section 41A of the Cr.P.C.

5] Mr. Jagtap, learned Special Public Prosecutor while opposing the prayer would urge that investigation in the matter is considerably

progressed and there are statements of witnesses from whom money was extorted. It is further claimed that Applicant's case cannot be considered on par with co-accused Param Bir Singh. My attention is also invited to the fact that notice issued under Section 41A is not honoured by the Applicant, so also proceedings for publication of proclamation are pending.

6] Considered rival submissions

7] Just because complainant himself is alleged to be an accused in other similar offence, that by itself will not falsify case of prosecution, unless same is demonstrated by the Applicant. The allegation of offence of extortion to which Applicant is a party with other co-accused is substantiated by specific statements of the victims who have handed over the amount. Merely because Applicant is a business competitor of the complainant, in the aforesaid backdrop, it cannot be inferred that he is falsely implicated. Once a complaint is received disclosing cognizable offence, it is for the State to investigate and bring home the culprit. The complainant has very limited role to be played in investigation.

8] Fact remains that order of proclamation stands against the Applicant. Technical procedure of issuance of publication of proclamation in appropriate form, which process, I am informed, is already undertaken by the Respondent and subjudice before the competent Magistrate.

8] Apart from above, case of the Applicant cannot be treated on par with co-accused Param Bir Singh, as the said accused was granted protection by the Apex Court in the backdrop of *inter se* communication between the officers, which is not the case of the Applicant. From the investigation carried out till this date, prima facie involvement of the Applicant which warrants his custodial interrogation is apparent. That being so, in my opinion, no case for granting protection is made out. Application for anticipatory bail stands rejected.

(NITIN W. SAMBRE, J.)