IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1845 OF 2019

Ashokan Padmanabhan Puthanpurekal and another ... Applicants
versus
The State of Maharashtra ... Respondent

Mr.Rahul Arote for applicants.
None for respondent no.2.
Mr.S.R.Agarkar, APP, for State.
API Santosh Pawar, EOW-2, Navi Mumbai, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 13th August 2021

PC :

1. The applicants are apprehending arrest in CR No.74 of 2019 registered with CBD Belapur Police Station for offences under Sections 409, 420 r/w 34 of Indian Penal Code.

2. The applicants are Executive Directors of M/s.Anntech Offshore Engineering Private Limited. The applicant no.2 is the wife of applicant no.1. The company is engaged in business of electrical and instrumentation installation and has catered to the needs of several public sector units.

3. The FIR was lodged on 11th April 2019 with CBD Belapur Police Station. The complainant had alleged that he is the Director. He came in contact with applicant nos.1 and 2. In 2016 M/s.Anntech Offshore Engineering Pvt.Ltd had received projects of M/s.Triplex Water, M/s.Emerson Cama Consilium and others.

Applicant no.1 was not having sufficient funds and requested the complainant to buy 50% shares of his company and by way of share value he demanded Rs.30 lakh from him. The complainant had purchased 25% of the shares in his name and 25% shares in the name of his son. The complainant parted Rs.30 lakh on 24th February 2016 to the applicants. The applicants also demanded Rs.35 lakh from the complainant, which was parted by him to them by transfer. In the meeting held on 3rd March 2016 the complainant was provided share certificates and appointed Additional Director of M/s.Anntech Offshore Engineering Pvt.Ltd and authorized signatory. The complainant demanded payment from applicant no.1. Applicant no.1 was utilizing the amount for his own purpose. This fact was noticed by the complainant on verification of bank statement. In spite of demand of share by the complainant, it was not provided by accused. Subsequently the complainant realized that he has been terminated from company vide letter dated 5th February 2018. He questioned applicant no.1. The complainant collected information through Registrar of Companies and learnt that his name is not appearing as shareholder and Additional Director. The amount deposited by him was not shown on record. Thus, the accused had cheated him for an amount of Rs.98,90,228/-.

4. Learned advocate for applicants submitted that the complaint is false. The allegations are baseless. No offences as alleged are made out against applicants. The complaint was lodged with mala fide intention to harass the applicants. Private complaint was filed and directions were sought under Section 156(3) of Cr.P.C. The dispute is of civil nature. The complainant had approached the applicants with proposal to fund the company for expanding its

operations on the strength of its financial capabilities. The complainant and his son were inducted as Additional Directors on the promise that they would invest Rs.1.50 crores as their capital, however, they brought only Rs.20 lakh and Rs.15 lakh on 24th February 2016 and 26th February 2016. They failed to bring balance capital. At the time of overseeing work allotted to the company at Cochin, the complainant and his son withdrawn funds and siphoned off the same at their will. They appointed their own persons without consent of the applicants. The bank statement and ledger accounts disclosed that the complainant and his son withdrew amount of Rs.31,72,907/- from the bank account of the company and transferred the amount of Rs.31,63,975/- to their own company viz.M/s.Forusanntech Offshore Engineering Pvt.Ltd. The persons appointed by them Mr.Tom Babu had withdrawn amount of Rs.2,94,709/- and Mr.Akhilesh Vijayan withdrew Rs.16,55,880/- from the bank account of the company. The said amounts were utilized for their own purposes. In spite of repeated reminders, no explanation was given about the use of said funds by the complainant and others. The complainant had earlier lodged a complaint with CBD Belapur Police Station. No cognizance was taken by police. The applicants have co-operated with police authorities and submitted all the documents. The applicants have made representations dated 12th October 2018 to Commissioner of Police, Navi Mumbai and sent further reply dated 31st October 2018 dealing with allegations made by complainant. Before removing the complainant and his son from the post of Additional Director, extraordinary general meeting was convened on 5th February 2018 to remove them from the said post and intimated them through notice dated 8th December 2017. They refused to acknowledge notices and the same returned back to the company with remarks "unclaimed". Subsequently resolution was passed on 9th January 2018 removing them from the post of Directors. After the investigation of the earlier complaint, Police had come to the conclusion that the dispute between the parties is of civil nature and directed the complainant to approach Civil Court. The complainant thereafter filed private complaint in which directions were issued u/s.156(3) of Cr.P.C.. Thereafter FIR was registered.

5. Learned APP submitted that investigation is in progress. The complainant has alleged that he was deceived of huge amount as stated in the FIR. The complainant-respondent no.2 has filed reply opposing this application for anticipatory bail. He has contended that the applicants are involved in offence. The complainant was deceived for amount of Rs.98,90,228/-. The applicants have not co-operated with investigation. They have committed offence of cheating.

6. The applicants were granted interim protection by this Court vide order dated 22nd August 2019. They were directed to report Investigating Officer of concerned Police Station on 28th and 29th August 2019. It is not disputed that the applicants have appeared before Investigating Officer. It appears that the complainant had initially filed police complaint and since cognizance was not taken by Police, private complaint was filed and directions were issued under Section 156(3) of Cr.P.C.. The applicants have relied upon documents, such as, notice sent to complainant for convening extraordinary general meeting and the resolution passed for removal of the complainant and his son. Matter relates to documents.

Dispute is relating to money. The applicants have disputed claim of complainant. Considering the nature of allegations, custodial interrogation of the applicants is not necessary. Hence, I pass following order :

ORDER

(i) Anticipatory Bail Application is allowed and disposed of;

(ii) In the event of arrest of applicants in connection with CR No.74 of 2019 registered with CBD Belapur Police Station, Navi Mumbai, the applicants be released on bail on executing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;

(iii) The applicant shall appear before the Investigating Officer as and when called for till filing of charge sheet.

(PRAKASH D. NAIK, J.)

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