DDR

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1651 OF 2017

MATUKNARAYAN TIWARI ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Mr. Nilesh Tribhuvann, Mr. Burzin Bharucha, Ms. Alisha Pinto & Mr. Jehan Fulwadiwala i/b. White and Brief, Advocates and Solicitors for the applicant.
Mr. N.B. Patil, APP for the respondent – State.
Ms. Maya H. Patil, API – EOW, Mumbai.

CORAM : M.S.KARNIK, J.

DATE : JULY 20, 2021
(VIA V.C.)

P.C.:-

Heard learned counsel for the applicant.

2. This is an application for pre arrest bail in respect of C.R.No. 42 of 2017 for the offence punishable under Section 420 read with 120-B of the Indian Penal Code registered with Mahim Police Station and subsequently registered with Economic Offence Wing vide C.R.No. 24 of 2017.

3. Briefly stated the allegation is that the accused No.1 M/s. Pearl Engineering was desirous of selling scrap machinery from its factory premises. The original accused No.2 Mr. Ramesh

Mehra was a Director of the accused No.1 – company. The accused No.3 viz. the present applicant who was the partner of Fortuner Infrastructure agreed to purchase the scrap for a consideration of Rs.10,80,00,500/-. It appears that since various permissions were required to be obtained, the scrap was not removed by the applicant neither any payments made by the applicants to the original accused No.1 company. It is the allegation that knowing fully well that the scrap cannot be removed without permissions, the applicant introduced the complainant (Galaxy Traders) and induced them to purchase the scrap from the accused No.1. It is also alleged that the applicant received some kickbacks from the accused no.1 company. As a result of the intervention by the applicant, a tripartite agreement was entered into between the complainant, accused No.1 and the firm of the applicant. It appears that the complainant made a payment of Rs.2,01,18,160/- to the accused No.1 and also removed some materials. It is the case of the complainant that though they removed some materials but it was much less in value compared to the actual payments made. It is alleged that for want of permission, the scrap could not be removed and there was a breach of the agreements. Hence First Information Report against the accused.

4. I am informed that the accused No.1 has been granted pre arrest bail by the Sessions Court vide an order dated 2/3/2019.

5. No doubt, it is the case of the complainant that it is the applicant who had induced the complainant to purchase the scrap from the accused No.1. The agreement between the parties was breached and it is the allegation that the applicant was always well aware that the scrap cannot be removed without permission of the authorities. However, considering that the accused No.1 has been released on pre arrest bail by the Sessions Court ; the present ad-interim order is operating since 25/1/2018 ; and that original agreements/documents are already in the custody of the investigating officer, the custodial interrogation of the applicant is not necessary in my opinion.

6. Learned APP on instructions submits that the applicant must co-operate with the investigation and attend the concerned police station as and when called for. Hence the following order.

ORDER

1. In the event of arrest of the applicant in respect of C.R.No. 42 of 2017 registered with Mahim Police Station and subsequently registered with Economic Offence Wing vide C.R.No. 24 of 2017, the applicant be released on bail on

furnishing PR Bond of Rs.25,000/- with one or more sureties of the like amount.

2. The applicant shall attend the concerned police station to co-operate with the investigation on 26th July, and 28th July, 2021 between the period from 11.00 a.m. to 1.00 p.m. and thereafter as and when called.

3. The application is allowed and disposed of as such.

(M.S. KARNIK, J.)

DIKSHA DINESH RANE

Digitally signed by DIKSHA DINESH RANE
Date: 2021.07.20 18:49:02 +0530