

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.572 OF 2020

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Mrs. Priti Suresh Patel

..Applicant

Versus

The Union Territory of Daman & Diu

..Respondent

Mr. Subodh Desai i/by Pawan Mali, for the Applicant.

Mr. H. S. Venegaonkar a/w Aayush Kedia, for the Respondent No.1/
UOI.

Mr. N. B. Patil, APP for the Respondent /State

CORAM : NITIN W. SAMBRE, J.

DATE : 26th SEPTEMBER, 2022

PC.

1. Zee Entertainment Enterprises Limited (hereinafter shall be referred as "ZEEL" for the sake of brevity) is the sole authorized distributor and broadcaster of all channels in India has given licence approximately to 5000 cable operators. M/s. Lucky Cable Network was one of the licensee which was owned by Mrs. Priti Suresh Patel i.e. present applicant. Ramesh @ Babubhai Ganeshprasad Shah has entered into an MOU with M/s. Lucky Cable Network thereby operating cable business in Diu area vide MOU dated 30th March, 2016.

2. The officials from the ZEEL having noticed that the private cable operators were hijacking and transmitting the signals/

channels, conducted an inquiry, collected the evidence of hijacking their signals and lodged complaint. The said complaint has resulted into registration of Crime No.101 of 2016. The genesis of the aforesaid offence is, M/s. Lucky Cable Network through present applicant was not having any such right to transmit the signals of the paid Channels but for DTH connection holders. It appears that during the initial investigation, 'A-Summary' was filed before the Magistrate which was objected by wife of Ramesh @ Babubhai Ganeshprasad Shah. During such objection, she has relied on the aforesaid MOU dated 30th March, 2016, calling same to be a forged document. As a sequel of above, the applicant's involvement in the aforesaid offence was noticed.

3. Apprehending arrest, the applicant approached before the Sessions Judge, Diu seeking prayer for grant of bail which was rejected on 4th March, 2020. While claiming grant of bail/confirmation of ad-interim protection, Mr. Subodh Desai, counsel appearing for the applicant would urge that initial investigation has revealed non-involvement of the applicant in the alleged offence. According to him, it is only after the intervention of wife of the deceased Ramesh @ Babubhai Ganeshprasad Shah, the further investigation was set in motion. According to him, if the signatures on the aforesaid MOU were forged, the prosecution has enough time to investigate the role of the applicant in the offence. He would further urge that the entire investigation and the role alleged against the applicant is based on the documentary evidence

and that being so, custodial interrogation of the applicant is not required particularly when the applicant is on ad-interim protection from last two years.

4. Mr. H. S. Venegaonkar, counsel appearing for the respondent would urge that the custodial interrogation of the applicant is necessary for the reason of recovery of the original MOU. According to him, the statement of the witnesses including that of objector before the Magistrate speaks of the deceased Ramesh @ Babubhai Ganeshprasad Shah was not in a position to execute the MOU. He would urge that considering the nature of offence, the custodial interrogation of the applicant is very much required, as substantial monetary loss not only caused to the complainant but also to the public exchequer.

5. I have appreciated the submissions.

6. The fact remains that the present offence is based on the alleged forged MOU dated 30th March, 2016 and illegal transmission of Digital Signal. As such, provisions under Sections 51, 37(3), 63, 65 and 69 of Copy Right Act and Sections 420, 468 and 471 of IPC are invoked.

7. It appears that this Court vide order dated 11th March, 2020 has directed release of the applicant in the event of arrest. Applicant appears to have appeared before the Investigating Officer

and co-operated.

8. As far as collection of evidence during investigation is concerned, even if Mr. H. S. Venegaonkar is justified in claiming that the witnesses have stated about the medical condition of Ramesh @ Babubhai Ganeshprasad Shah was not in a position to execute the MOU or the Notary having claimed that Ramesh @ Babubhai Ganeshprasad Shah has not appeared before him at the time of execution of said document that by itself will not justify the claim of the respondent for rejection of bail particularly when initial investigation has resulted into non-involvement of the applicant in the crime. It was but for objection based on MOU dated 30th March, 2016. The copy of the said MOU is very much available for the purpose of investigation, if not original document.

9. In that view of the matter, in my opinion, there is hardly any material to infer that the aforesaid investigation in the matter warrants custodial interrogation of the applicant particularly when she being female was already protected since 11th March, 2020. As such, the ad-interim protection granted by this Court stands confirmed.

10. In the event of arrest, applicant is directed to be released on bail on furnishing PR bond of Rs.25,000/- with one or more sureties in the like amount.

11. Applicant shall neither influence the witnesses in any manner nor tamper with the evidence.

12. Applicant shall attend the Investigating Officer from 10th October, 2022 to 14th October, 2022 between 10.00 a.m. to 12.00 noon and thereafter as and when directed, if not already charge-sheeted.

13. The application as such stands disposed of.

[NITIN W. SAMBRE, J.]