

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 2038 OF 2019
WITH
INTERIM APPLICATION NO. 1450 OF 2022**

Vishwajeet Subhash Jhavar

... Applicant

V/s.

The State of Maharashtra & Anr.

... Respondents

Mr. Sanjeev Kadam i/b. Mr. Amit Ashok Gharte for Applicant.

Mr. R.M. Pethe, A.P.P. for Respondent No.1-State.

Mr. Aditya Mithe a/w. Mr. Sachin R. Agawane for Respondent No.2.

CORAM : A.S. GADKARI, J.**DATE : 13th June 2022.****PC. :**

1. In furtherance of various Orders passed earlier to this, Applicant has deposited principle amount of Rs.2,29,84,200/- alleged to have been defalcated by the Applicant.

2. By a reasoned Order dated 19th September 2019, Applicant was granted interim relief. On 19th September 2019 itself the Applicant had expressed his willingness to handover possession of the suit flat to the informant. It is the precise contention of the learned counsel for the Applicant that, the Applicant never intended to commit misappropriation or criminal breach of trust of amount paid by the informant to him towards purchase of

the suit flat, which is more specifically mentioned in the First Information Report (F.I.R.).

3. Deposit of the said amount by the Applicant in the Registry of this Court clearly indicates his bonafide intention in either settling the matter or not committing defalcation of the said amount. It is needless to mention that, the deposit of the said amount by the Applicant in this Court, is without prejudice to his rights and contentions, to be raised at the time of trial; filing an application for quashing of F.I.R. or compounding the said offence.

4. Pleadings of the learned counsel for the first informant prima-facie indicates that, the informant also intends to settle the matter. However, it appears to this Court that, the expectations and demands of informant are unending and beyond the scope of F.I.R. lodged by him. It appears to this Court that, the first informant intends to exploit the situation of lodgment of crime against the Applicant, which this Court was not ready and willing to accept and therefore leaves the parties herein at their discretion to settle the matter out of Court, if they so desire.

5. Be that as it may. As noted earlier, in pursuance of various Orders passed earlier to this, the Applicant has proved his bonafide and has deposited the said entire amount in the Registry of this Court by way of demand draft. The Prosecution Agency is seeking custody of the Applicant mainly for the purpose of recovery of the said amount and none else. As the Applicant has

deposited the entire amount as mentioned in the F.I.R., this Court is of the view that, custodial interrogation of the Applicant for further investigation of the present crime is not at all necessary. Even otherwise the investigation of the present crime is based solely on documents, which have already been taken into custody by the Investigating Officer in last about three years.

6. In view of the above, interim relief granted by Order dated 19th September 2019 is hereby confirmed.

Application is allowed in the aforesaid terms.

7. In view of disposal of Anticipatory Bail Application, Interim Application No. 1450 of 2022 pending therein, does not survive and is accordingly disposed off.

[A.S. GADKARI, J.]

OMKAR
SHIVAHAR
KUMBHAKARN
Digitally signed
by OMKAR
SHIVAHAR
KUMBHAKARN
Date:
2022.06.15
17:14:09 +0530