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

ANTICIPATORY BAIL APPLICATION NO.320 OF 2023

1. Sushil Kishor Churi ...
2. Rohan Ashok Patil ...Applicants

vs.

The State of Maharashtra ...Respondent

**WITH
INTERIM APPLICATION NO. 572 OF 2023
IN
ANTICIPATORY BAIL APPLICATION NO.320 OF 2023**

1. Sanjeev Amarnath Aggarwal ...Applicant

vs.

The State of Maharashtra ...Respondent

Mrs. Vrishali P Raje for the Applicant in ABA No.320/2023.
Mrs. Yogita Chitnis for the Applicant in IA No.572/2023.
Mr. H. J. Dedhia APP for the Respondent-State.

CORAM : S. M. MODAK, J.

DATED : 20TH MARCH 2023

P. C. :

1. The first informant wants to intervene in the matter. It is allowed. Interim Application is disposed of.

2. Heard learned Advocate for the Applicants, learned

Advocate for the first informant and learned APP for the Respondent-State.

3. The FIR is registered with Boisar police station, Palghar on 18th January 2023, under sections 386 read with 34 of IPC on the complaint of one Sanjeev Agarwal, who is the owner of a company "Kisan Moulding Ltd.". The company is in business of manufacturing PVC pipes. They are running business since 1982. There are all 284 employees. Out of pressure, the management has given recognition to Bhartiya Mathadi and General Kamgar Sena. There is agreement with Union. The duration was from 2018 till 2021. It was subsequently extended. Applicant No.1-Sushil Churi is the General Secretary of that Union and Applicant No.2-Rohan Patil is the Secretary of that Union

4. The complainant was compelled to pay the amount of Rs.1,50,000/- per month to Applicant No.1-Sushil and Rs.30,000/- per month to Applicant No.2-Rohan, due to threat given by them. These amounts were paid either by cheque or cash. The total amount paid is Rs.74,54,000/- for the period 1st

April 2019, till 5th May 2022.

5. The Management stopped paying that amount from 2nd April 2022. It has resulted into act of threatening by Applicant No.1-Sushil on 20th May 2022, that's why the FIR came to be filed.

6. It is submitted on behalf of the first informant that there is background to this incident. There are various incidents quoted in the FIR about taking law into own hands. They are as follows :-

- (a) Applicant No.2-Rohan Patil stopped the scrap purchaser from removing scrap from the company on 2nd June 2022, and for which non cognizable offence was registered under sections 504 and 506 of the IPC.
- (b) Applicant No.2-Rohan Patil threatened the owner, on telephone on 2nd June 2022. (There is no complaint).
- (c) The HR Manager Mr.Jaydeep Palkar was threatened on 2nd July 2022, when he had gone to office of Applicant No.1.
- (d) On 22nd June 2022, Store Manager Mr.Suryakant Tiwari

was assaulted by six unknown persons, and the offence under sections 326, 143, 147, 149, 504, 506 was registered at Boisar police station. Applicant No.2-Rohan Patil came to be arrested. Now he is on regular bail.

7. Learned APP pointed out to me certain bank statements which shows that payment is made by the company to the Applicants.

8. Whereas according to the Applicants there are various complaints made to the authorities under labour law by Union, for not complying with provisions of labour laws. There are on page 50 to page 66. There is an order passed by the Industrial Court, Thane thereby retraining Respondent Nos.2 to 7 from terminating the services of 128 employees belonging to the Union.

9. Learned Advocate for the first informant submitted that this direction is not against M/s. Kisan Moulding Ltd. Shee has also explained that Respondent Nos.2 to 7 are the persons who are supplying service of labourers to the company of the first

informant. She also submitted that there is also no agreement in between the Company and the Union.

10. The Applicants have relied upon one settlement executed before the Assistant Commissioner of Labour (page 106) . There is settlement in between Union and Company, entities who are supplying the labourers.

11. Learned Advocate for the Applicants also submitted that their clients are not denying the payments and in fact they relied upon copies of invoices attached from page 42 to page 49. During the arguments, it is submitted that even they have paid the GST. Whereas according to the first informant, they have enquired from the GST office, and it was revealed that in fact GST is paid, not for supply of labours but same is for scrap. Requisite invoice is at page 42. It is submitted that that's why investigation needs to be carried out whether GST shown in those invoices is paid on account of labour consultancy or on account of some other reason.

12. My attention is invited to various offences registered against the Applicants and others which are revealed in the reply

filed on behalf of the prosecution before the Court of Additional Sessions Judge, Palghar. It is true that one may see the averment in FIR, one will find that there are various instances of taking law into their hands. The company might have to face some problems of strike and other disturbances in the work. The company is denying the relationship of employer and employee. I think proper forum for redressing all these grievances is before the Authority as per labour law.

13. So far as these allegations are concerned, we have to see whether on the basis of allegations in the FIR the case for interrogation is made out or not. My attention is also invited to supplementary statement which is annexed to the Interim Application. It is dated 21st January 2023. The first informant – Agarwal has said that Applicant No.1-Sushil has threatened the employer of the company, that he will be killed.

14. An attempt is also made to point out difference in between section 383 and 386 of the IPC on behalf of the Applicant. The major difference is that if there is threat of putting a person in fear of death or grievous hurt, it becomes offence under section

386 of IPC. However, if there is simple threat of causing an injury, it amounts to an offence under section 383 of IPC.

14. There are two angles for looking to the issue. If the incident is extortion, one can say that duration is from 2019 to 2022 and whereas FIR is filed on 18th January 2023, after six months from the last incident. In that case we may very well say that the case for anticipatory bail is made out. One can say that the act of lodging FIR is in continuation of earlier incident. It is true that the money has parted away from 2019 to 2022. It is also true from earlier incident referred in the FIR that certain actions are initiated. The reason for lodging non cognizable complaint on 2nd June 2022, is extortion when the Management refused to pay that amount. Even thereafter FIR is lodged after a period of almost six months.

15. So I think this incident of lodging of FIR has to be looked into now from different angle. So far as previous incidents are concerned, action was taken and law will take its own course. So recent inquiry is concerned, I have reasonable belief that this amount have been paid to them since April 2019 till May 2022,

and the second FIR is lodged after six months. So I think the Applicants deserve to be released on anticipatory bail but subject to certain conditions. Hence, the following order is passed :

O R D E R

- (a) In the event of arrest Applicant No.1-Sushil Churi and Applicant No.2-Rohan Patil be released on bail on furnishing personal bond and surety bond of Rs.50,000/- each in connection with C.R. No.28 of 2023, registered with Boisar police station, for the offences punishable under sections 386 read with 34 of IPC.
- (b) The Applicants shall not threaten the prosecution witnesses or allure them in any manner.
- (c) The Applicants are directed not to enter Palghar District till completion of trial.
- (d) The Applicants to furnish alternate address to the police.
- (e) The Applicants to give attendance to the Boisar police station, Palghar on every Friday and Monday from 10 am to 12 noon for one year and for that purpose only they are permitted to enter Palghar District.

(f) Needless to say, violating any of the conditions above will make the Applicants liable for cancellation of anticipatory bail after notice.

16. Application is disposed of accordingly.

17. These are my prima facie observations and the trial Court may not be influenced by that.

18. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]