

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

ANTICIPATORY BAIL APPLICATION NO. 2180 OF 2023

Chandrakant Rambadai Gupta

..Applicant

v/s.

The State of Maharashtra .

..Respondents

Mr. Sujit Shelar i/b. Vishal Shukla for the Applicant.

Mr. Sushil Shukla i/b. Janki Sampat for the Intervenor.

Mr. S.V.Gavand, APP for the State.

CORAM : ANUJA PRABHUDESSAI , J.

DATED : 10th AUGUST, 2023.

P.C.

1. The applicant apprehends arrest in C.R.No.417 of 2023 registered with Borivali Police Station for offences under Section 384, 385 r/w. 34 of the Indian Penal Code.

2. Heard learned Counsel for the Applicant, learned APP for the State. I have perused the records and considered the submissions advanced by the learned Counsel for the respective parties .

3. The aforesaid crime was registered pursuant to the FIR lodged by Rajiv Mishra . The facts narrated in the FIR prima facie reveal that the complainant is a fruit vendor, conducting his business at Apna Phal Bazaar, situated at Dadarkar Ground, Chikuwadi, Link Road, Borivli (West), Mumbai. The first informant has alleged that in May 2023, one Manish Dube filed a complaint before the BMC alleging that the fruit

vendors have constructed illegal shops in the public property and are commercially exploiting the public property for their personal gains.

4. The FIR reveals that the applicant herein had called the first informant and had threatened to stop his business. The applicant had further told him that in case he wanted the matter to be settled, he should meet his brother Jitendra Gupta and one Manish Dube. The brother of the applicant would constantly phone the complainant and threaten to stop his business. Hence, the first informant met the co-accused Manish Dube and Jitendra Gupta. The first informant claims that the co-accused demanded sum of Rs, 10 Lakhs and Rs.25 lakhs per month to settle the dispute or to withdraw the complaint. Upon negotiations, the first informant agreed to pay Rs.5 lakhs and Rs.15 lakhs per month. Since the applicant and his brother Jitendra Gupta and Manish Dube were trying to extort money from the fruit vendors, on 11.7.2023, the first informant as well as one Rajesh Jaiswal and Rahul Kadam reported the incident to the police. A trap was led and the brother of the applicant - Jitendra Gupta, who is also one of the co-accused was caught accepting Rs.2 lakhs from the first informant.

5. The first information report as well as the statement of the other fruit vendors prima facie reveal that the applicant and the co-accused were involved in extorting money from the fruit vendors. The modus operandi was to lodge a complaint and thereafter to extort money for settling the dispute. The investigation is at preliminary stage. The

statements of the other fruit vendors/victims are yet to be recorded. Considering the nature of the accusation and the material in support thereof, in my considered view, this is not a fit case to exercise discretion under Section 438 of Cr.P.C. Hence, the application is dismissed.

(ANUJA PRABHUDESSAI, J.)