IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 457 OF 2024

Mohammed Arif Shaffeeq Ahmed Patel ... Applicant
Versus
The State of Maharashtra ... Respondent

WITH
INTERIM APPLICATION (ST.) NO. 24883 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO. 457 OF 2024

Arvind Kumar Laxmanprasad Gupta ... Applicant
Versus
The State of Maharashtra ... Respondent

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Mr. Ashok P. Mundargi, Senior Counsel, i/by Ratnesh Dube and Prachi Pandit for the Applicant.
Mr. Onkar Gupte a/w Utkarsh Chaturvedi for Intervenor/Original Complainat in IAST/24883/2024.
Mr. Mayur S. Sonavane, APP for Respondent-State.
Mr. Udhav Solanke, PSI, Panvel City Police Station.

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CORAM: MANISH PITALE, J.
DATE : 2nd DECEMBER 2024

P.C. :

. Heard learned counsel for the applicant, learned APP for the respondent-State and the learned counsel for the intervenor (first informant).

2. On 16 February 2024, this Court granted interim relief in favour of the applicant. After taking note of the submissions made

on behalf of the applicant, the following observations were made :

> *"4. The FIR is lodged by one Arvindkumar Gupta. He has stated that he had constructed a residential complex at Plot No.285, T.P. Scheme 1, Panvel, District Raigad, in the year 2003. Since 2008, the residents had formed a co- operative society. According to the first informant, in that complex in a building named as Dwarkamai, shop Nos.19 and 20 were owned by him. But since he and his son were extremely busy in his business, those shops were kept locked. The informant could not visit his shops at all. In the year 2022 somebody from the complex informed him that those shops were occupied by the present Applicant and he was conducting some business in those shops. When the informant went to the shops and questioned him, he threatened the informant. According to the first informant, he had not sold his shops to anybody including the Applicant. It is alleged that the Applicant prepared forged documents and obtained electricity connection and entered his own name as the tax payer in respect of those two shops. On this basis, the FIR is lodged.*
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> *5. Learned Senior Counsel for the Applicant submitted that it is highly unbelievable that from 2008 till 2022, the informant had never visited those shops. He submitted that before lodging of the FIR the police had conducted the preliminary enquiry, in which the informant's statement was recorded. The case of the informant in the present FIR as compared to the statement recorded in that inquiry is totally contrary. In the FIR itself it is mentioned that the Applicant's brother was a material supplier and he had purchased some material from the informant and in that connection, he had paid amount of Rs.4 lakhs to the informant. However, in his earlier statement, during the enquiry the informant had stated that the Applicant himself had met him in 2002 and had given Rs.4 lakhs through cheques for purchasing those shops. Those shops were to be purchased for Rs.30 lakhs and he has not paid the balance amount. Thus, these two stories are completely contrary. There is inordinate delay from 2008 to 2024 in lodging the FIR."*

3. This Court has considered the submissions in the backdrop

of statement made by the learned APP on instructions that the applicant has cooperated with the investigation and he has abided by the directions issued by this Court to attend the Police Station as and when called.

4. This court has considered the documents on record, particularly those emphasized upon by the learned Senior counsel appearing for the applicant, indicating the grievance with which the first informant approached the Police in September 2022. A perusal of the same shows that the grievance was stated in a particular manner. The statement of the first informant recorded on 28th October 2022 and supplementary statement recorded on 25th May 2023, when compared with the statement dated 5th January 2024, which led to registration of the FIR, *prima facie* shows contrary versions being brought before the Police on behalf of the first informant. In fact, this aspect was observed by this Court in the above quoted portion of the interim order.

5. The other documents on record also indicate that *prima facie* it can be said that the grievance being raised by the first informant, *prima facie* demonstrates a civil dispute between the parties. It is relevant to note that the Police itself reached such a conclusion in a noting made in October 2023, pursuant to the earlier statements given by the first informant before the Police. Therefore, *prima facie* it can be said that the first informant is seeking to give the colour of criminality to a civil dispute.

6. This Court is unable to agree with the learned counsel for the intervenor (first informant) that documents annexed to the intervention application, including electricity bills, etc. indicate forgery committed on the part of the applicant. If at all, it would be a matter for investigation by the Police, but in that context, custody of the applicant cannot be justified.

7. In view of the above, the interim order dated 16^{th} February 2024 is made absolute and the application is allowed, subject to the applicant continuing to cooperate with the investigation. He shall not influence the informant, witnesses or any person concerned with the case and he shall not tamper with the evidence.

8. In view of the disposal of the anticipatory bail application, the interim application also stands disposed of.

MANISH PITALE, J.