

(Corrected as per speaking to minutes of order dated 27.06.2024.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1664 OF 2024

Sagar Babanrao Marne ... Applicant

Vs.

State of Maharashtra ... Respondent

WITH
INTERIM APPLICATION (ST.) NO.13176 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO.1664 OF 2024

Mr. Manoj Mohite, Senior Advocate i/b. Mr. Viraj Hake for Applicant.

Mr. Tanveer Khan, APP for Respondent-State.

Mr. Ashish R. Kachole i/b. Mr. Samay Pawar for Intervener.

CORAM : MANISH PITALE, J.

DATE : JUNE 26, 2024

P.C. :

. Heard Mr. Mohite, learned senior counsel for the applicant and Mr. Khan, learned APP for the respondent-State.

2. Although Mr. Kachole, learned counsel having instructions to appear on behalf of the informant is seeking some time in the matter in order to place on record further material, considering the nature of allegations and the documents filed along with the application, this Court is of the opinion that unnecessary adjournment in this case is not warranted.

3. The applicant has approached this Court apprehending arrest in connection with FIR No.0316 of 2024 dated 30.05.2024 registered with Chikhli Police Station, District - Pimpri Chinchwad, for offences under Sections 406, 409 read with Section 34 of the Indian Penal Code, 1860 (IPC). The applicant is accused No.1 in the present case.

4. The learned senior counsel appearing for the applicant invited attention of this Court to the statement of the informant leading to

registration of the FIR. He submits that the dispute between the parties emanates from a registered development agreement dated 30.12.2013, wherein the signatories to the agreement had mutual obligations. It is brought to the notice of this Court that the informant is plaintiff No.2 in a suit filed against the accused persons and others claiming that the plaintiffs, including the informant, are entitled to an amount of Rs.6,64,04,312/- from the defendants. On this basis, it is submitted that the dispute is essentially of a civil nature, being contested before the competent civil court wherein the defendants have themselves come forward and conceded that they are ready to pay a specific amount to the plaintiffs. It is further brought to the notice of this Court that the defendants therein i.e. the accused in the present case caused public notice to be issued stating that the plaintiffs could approach the defendants and collect the aforesaid admitted amount. It is submitted that the suit is still pending and in this backdrop, it cannot be said that even *prima facie* the alleged offences are made out. On this basis, it is submitted that since the applicant undertakes to co-operate with the investigation, the present application may be allowed.

5. On the other hand, the learned APP submits that a perusal of the statement leading to registration of the FIR would show that details have been given as to how the informant has arrived at the amount due from the accused persons, including the applicant before this Court. It is submitted that the ingredients of the offence are made out as the informant has stated in detail about the manner in which the accused persons allured the informant and others to enter into the aforesaid agreement. It is submitted that the FIR being registered recently on 30.05.2024, the investigation is at a nascent stage, and that therefore, this Court may not consider the present application favourably.

6. The learned counsel for the informant also strongly objected to

the prayer being granted in the present application.

7. This Court has considered the application on the basis of a copy of the FIR and other relevant documents placed on record. A perusal of the FIR itself shows that the occurrence of the offence is stated to be between 30.12.2013 and 30.05.2024 i.e. a period of more than ten years. The registered development agreement was executed as far back as on 30.12.2013. At one place in the statement leading to registration of the FIR, the informant alleges that when the agreement was executed and signed on 30.12.2013, he and other members of his family signed in a hurry and they did not read the document carefully.

8. The documents on record also show that the subject agreement is a registered document and that the informant himself is plaintiff No.2 in the civil suit filed before the competent civil court, as far back as on 24.01.2020 and that the said suit is pending. In the written statement itself, the defendants, some of whom are accused persons, have conceded that specific amount is due to the plaintiffs, and that the total claim made by the plaintiffs is disputed. The prayer clause in the suit shows that the plaintiffs, *inter alia*, have sought a decree for recovery of Rs.6,64,04,312/- from the defendants. This figure finds mention even in the statement leading to registration of the FIR.

9. Considering the aforesaid material, this Court finds that the root of the dispute between the parties is *prima facie* of civil nature. The statements made in the information provided by the informant to the police also indicate that the dispute relates back to the aforesaid registered development agreement dated 30.12.2013.

10. In that view of the matter, this Court is of the opinion that a *prima facie* case is indeed made out by the applicant in his favour. The applicant is ready to co-operate with the investigation and therefore, the

present application deserves to be allowed.

11. Accordingly, the application is allowed in the following terms:

- A. In the event the applicant is arrested in connection with FIR No.0316 of 2024 dated 30.05.2024 registered with Chikhli Police Station, District - Pimpri Chinchwad, he shall be released on bail on furnishing PR Bond of Rs.50,000/- (Rupees Fifty Thousand only) and one or two sureties in the like amount to the satisfaction of the trial Court;
- B. The applicant shall remain present before the investigating officer on 29.06.2024 between 10:00 a.m. and 12 noon and thereafter, as and when called by the investigating officer. He shall co-operate with the investigation;
- C. The applicant shall not influence the informant, witnesses or any person concerned with the case and he shall not tamper with the evidence.

12. In case any of the aforesaid conditions are violated, the present order would be liable to be cancelled.

13. The application is disposed of.

14. In view of the disposal of the anticipatory bail application, nothing survives in Interim Application (St.) No.13176 of 2024 and the same is disposed of accordingly.

(MANISH PITALE, J.)