IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2136 OF 2024

Sudarshan Ganpat Balwadkar … Applicant
vs.
The State of Maharashtra … Respondent

Mr. Anurag Jain, i/b. A. J. Associates for applicant.

Mr. Bapu V. Holambe-Patil, APP for respondent-State.

Mr. Prashant Darandale for first informant (original complainant).

Mr. S. S. Khalate, PSI, Sangavi Police Station, District Pimpri-Chinchwad.

CORAM : MANISH PITALE, J.
DATE : 20th AUGUST, 2024

P.C. :

. Heard learned counsel for the applicant, learned APP for respondent-State as well as the learned counsel having instructions to appear on behalf of the first informant.

2. The applicant is apprehending arrest in connection with FIR No.0280 of 2024 dated 02.07.2024 registered at Sangavi Police Station, District Pimpri-Chinchwad for offences under Sections 406, 420, 504 and 506 read with Section 34 of the Indian Penal Code, 1860.

3. The informant and the applicant are partners in a partnership firm called Shreepati Enterprises. The grievance of the informant is that the applicant acted in a clandestine manner, behind the back of the informant, during the process of purchasing a particular immovable property, under the garb of expansion of business of the firm. It is the case of the informant that while the applicant, in September 2022, gave an impression that the business of the firm had to be expanded, for which purpose the immovable property

was to be purchased, instead of purchasing the property in the name of the partnership firm, it was purchased in the individual names of the applicant and his wife. It is submitted that the aforesaid step was taken without the knowledge of the informant and despite the fact that the informant and his family members had given their personal properties as collaterals and securities for obtaining the loan, under the impression that the property was being purchased in the name of the partnership firm.

4. The learned counsel for the applicant submits that in the present case, certain disputes had arisen between the applicant and the informant as partners of the said firm. In that backdrop, the informant has come up with the theory of the applicant having cheated him in the course of the transaction, leading to purchase of the said immovable property. It is submitted that the informant was all along aware that the loan was taken from the bank for purchasing the said immovable property and it was a rent-secured loan, as its repayment was to be done from the share of rent accruing to the applicant as a partner of the said partnership firm, in the context of the rent being paid by Mahanagar Natural Gas Limited, which is running a CNG pump on the land for which, rent is being paid by the said company. It is submitted that while filling up the forms and proposals for the said loan and signing the documents by giving collaterals, etc., the informant and his family members were clearly aware of the nature of transaction and the allegation of cheating by the applicant is an after-thought, which was made after the *inter se* disputes had arisen between the applicant and the informant. It is submitted that the documents on record, including the Income tax returns of the firm, etc. clearly indicate the fact that false allegations have been made by the informant in the backdrop of the dispute between the partners.

5. On the other hand, the learned APP vehemently opposed the present application, submitting that the impression given to the informant was that the property was purchased in the name of the partnership firm for the purpose of expansion of business, but in reality, the property was purchased in individual names of the applicant and his wife. All the communications pertaining to loan, etc. were being made on the contact number and email id of the applicant, thereby keeping the informant in the dark. It is submitted that the ingredients of the offences in question are clearly made out.

6. The learned counsel for the informant supported the contentions raised by the learned APP and he submitted that since the ingredients of the offences are made out, this Court may not show any indulgence to the applicant.

7. This Court has perused the statement of the informant leading to registration of FIR. The statement itself shows that the informant and applicant are partners in the said partnership firm. *Prima facie*, it cannot be said that the informant is either an illiterate or ignorant person, who has no idea as to the way the business is conducted. His own statement, which led to registration of FIR, indicates the nature of business of the partnership firm, of which he is a partner. The crux of the allegation against the applicant is that he lured the informant to agree to purchase the immovable property and in that regard, to take loan from the bank, giving an impression that the property would be purchased in the name of the firm, while the property was found to have been purchased in the individual names of the applicant and his wife.

8. This Court has considered the chronology of events as described by the

informant. It is evident from his own statement that after October 2023, it was the informant, who was looking after the accounts and affairs of the firm. It is stated that only in January 2024, the informant came to know about the alleged illegal acts of cheating committed by the applicant.

9. It is relevant to note that the aforementioned Mahanagar Natural Gas Limited had raised certain demands against the partnership firm by its letter dated 28.02.2024, wherein it started the communication by referring to the unresolved internal disputes between the partners of the said partnership firm. Thereafter, a demand of ₹ 34.35 lakhs was made for supply of gas. The said document *prima facie* indicates the fact that this could be a reason for the internal disputes between the applicant and the informant as partners of the said partnership firm.

10. The documents pertaining to Income tax returns and other connected papers *prima facie* do support the contention raised on behalf of the applicant that it was all along an understanding that the loan for property would be taken from the bank and repaid from the share of the amounts being received by the applicant towards rent from the said gas company. This appears to be supported by the fact that even according to the informant, the loan was a rent-secured loan. It is also difficult to accept that the informant and his family members did not peruse the loan proposal and the papers, while signing documents to place their properties as collaterals and securities for the aforesaid loan. *Prima facie*, it appears that a commercial dispute between two partners of the partnership firm, is sought to be given the colour of criminality. The disputes between the partners can be resolved in accordance with law, but at this stage, this Court is of the opinion that physical custody of the applicant may not be required. The very

nature of allegation indicates that the evidence is documentary in nature and therefore, so long as the applicant is ready to co-operate with the investigating authority, protection can be granted.

11. In view of the above, the application is allowed in the following terms:

(i) In the event the applicant is arrested in connection with FIR No.0280 of 2024 dated 02.07.2024 registered at Sangavi Police Station, District Pimpri-Chinchwad, he shall be released on bail on furnishing PR Bond of ₹ 50,000/- with one or two sureties in the like amount to the satisfaction of the trial Court;

(ii) the applicant shall remain present before the Investigating Officer on 22.08.2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when the Investigating Officer calls upon him to remain present;

(iii) the applicant shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses and other persons concerned with the case;

(iv) The applicant shall co-operate with the investigation and also in the proceedings before the trial court.

12. In the event, the applicant violates any of the conditions specified in this order, it shall be liable to be cancelled.

13. It is also clarified that the observations made in this order are limited to the disposal of the present anticipatory bail application and the trial court shall proceed further in the matter without being influenced by the observations made hereinabove.

14. The application stands disposed of.

(MANISH PITALE, J)