IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2739 OF 2024

Saurabh Mukesh Rathod ...Applicant

Versus

The State of Maharashtra ...Respondent

WITH

INTERIM APPLICATION NO.4075 OF 2024

IN

ANTICIPATORY BAIL APPLICATION NO. 2739 OF 2024

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- Mr. Kishor Gaikwad a/w Mr. Ashutosh Gaikwad, for Applicant.
- Mr. Balraj B. Kulkani, APP for Respondent.
- Mr. Vivekanand Vindod Krishnan, for Applicant in IA/4075/2024.

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CORAM : MANISH PITALE, J.

DATE : 10th OCTOBER, 2024.

P. C. :

1. Heard, Mr. Gaikwad, learned counsel for the applicant and Mr. Kulkarni, learned APP for the respondent-State as well as Mr. Krishnan, learned counsel for the intervenor (first informant).

2. The applicant is apprehending arrest in connection with First Information Report No.I-175 of 2024, dated 06.07.2024, registered with Police Station Mhasrul, District Nashik, for offences under Sections 465, 467, 468, 471, 420, 120-B read with Section 34 of the Indian Penal Code, 1860 (IPC).

3. The applicant is one of the accused persons and his father,

brother as well as his wife are also arraigned as accused persons in the said FIR.

4. The statement of the informant, leading to registration of the FIR, runs into several pages and the informant has traced the sequence of events from the year 2018 onwards. Broadly speaking the grievance of the informant appears to be that the applicant and his family members duped her and her husband during the course of forming partnership firm and purchasing a sugar factory. It appears that the grievance of the informant is that while she and her husband pumped in finances for purchase of the sugar factory, the applicant and his family failed to bring any finances. Eventually dispute arose between the parties and when it came to the informant and her husband deciding to retire from the partnership firm and seeking their rightful dues, the applicant and his family refused to give them their dues, resulting in disputes amongst them and eventually the FIR being registered.

5. The learned counsel for the applicant invited attention of this Court to a number of documents, including the partnership deed executed between the husband of the informant and father of the informant and also a settlement agreement executed between the parties, during the course of settlement of the dispute that arose between 2018 till the execution of the settlement agreement.

6. It was further brought to the notice of this Court that in the

process of settlement, a deed of retirement from the partnership was also executed, whereby the informant and her husband agreed to retire from the partnership firm, subject to their dues being paid. It was emphasized that all these documents contained arbitration clauses and that a commercial dispute is being colour of criminality. It is submitted that since the applicant is ready to cooperate with the investigation, this Court may consider allowing the present application.

7. On the other hand, the learned APP submitted that a perusal of the statement, leading to registration of the FIR would show that the ingredients of the offences of cheating, as also forgery are made out against the applicant as well as other accused persons. It is submitted that in such a situation, it may not be appropriate to show any indulgence to the applicant.

8. The learned counsel for the intervenor supported the submissions made by the learned APP and he further submitted that when the informant and her husband approached the applicant and other accused persons for return of their rightful dues, they were threatened and they were not given their dues. It was submitted that the narration of events in the statement, leading to registration of the FIR, would show that from the very beginning the applicant and the other accused persons had acted in a dishonest manner and that in the process of showing as if the dispute was being settled, forged

documents were utilized by the applicant and the other accused persons. On this basis, the learned counsel for the intervenor opposed the prayer made in the present application.

9. This Court has considered the material on record in the light of the rival submissions. It is found that the grievance highlighted by the informant surrounds the activities undertaken by her husband in partnership with the father of the applicant, in the context of purchasing the sugar factory. The narration of events starts from the year 2018 and it is alleged that till the date of registration of the FIR, numerous attempts were made on the part of the informant and her husband to ensure that the business was taken up in right earnest, but the applicant and his family members i.e. the co-accused persons on every occasion came up with one or the other idea with the design of duping the informant and her husband. Reference is also made to certain documents that were forged, while an impression was given that the disputes were being settled.

10. But, a perusal of documents on record shows that there was a partnership deed executed between the husband of the informant and father of the applicant. It is also an admitted position that another partnership deed had to be executed by the informant herself with a third person for obtaining loan for the purpose of purchasing the sugar factory for the partnership firm in

which the husband of the informant and the father of the applicant were partners. It appears that dispute arose between the parties, as the aforesaid events took place. The role of the Chartered Accountant has also been stated by the informant in her statement.

11. Eventually, it appears that the informant and her husband decided to move out of the business and they even agreed for retiring from the partnership firm, subject to their dues being paid. In that light, deed of admission cum retirement was executed, whereby it was proposed that a third party would enter as a partner in the partnership firm. A memorandum of understanding cum settlement agreement was also executed, to which the husband of the informant was a party. It is relevant to note that all these documents i.e. the partnership deed, the admission cum retirement deed, as also the memorandum of understanding cum settlement agreement contained arbitration clauses. The nature of dispute *prima facie* appears to be commercial / civil in nature, wherein the informant and her husband are interested in return of their rightful dues from the applicant and the co-accused persons. In that sense, it can be said that a colour of criminality is sought to be given to a dispute that *prima facie* appears to be commercial / civil in nature. It is to be noted that even the father of the applicant had approached the police with regard to grievances against the informant and her husband, thereby indicating that perhaps both sides have been making an

attempt to involve the investigating machinery in order to settle the disputes arising between them. The root cause of the dispute being the business venture that was started by the husband of the informant and father of the applicant, this Court is of the opinion that protection can be granted to the applicant, so long as he undertakes to cooperate with the investigation.

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

A) In the event the applicant is arrested in connection with FIR No.I-175 of 2024, dated 06.07.2024, registered with Police Station Mhasrul, District Nashik, he shall be released on bail on furnishing P.R. Bond of ₹ 50,000 with one or two sureties in the like amount, to the satisfaction of the Trial Court, if not required in any other offences.

(B) The applicant shall remain present before the Investigating Officer, on 12th October, 2024, and 14th October, 2024, between 10:00 a.m. and 12:00 noon and thereafter as and when called by the Investigating Officer.

(C) The applicant shall cooperate with the investigation, including producing all documents in his possession as may be demanded by the Investigating Officer.

(D) The applicant shall not tamper with the evidence in any manner. He shall not influence the informant, witnesses or any other persons concerned with the case.

13. In the event the applicant granted bail, violate any of the conditions recorded hereinabove, the bail granted to him would be liable to be cancelled.

14. It is made clear that the observations made hereinabove in the present order are limited to disposing of the present bail application. The Trial Court shall proceed on merits in the present case without being influenced by the observations made hereinabove.

15. The application is disposed of.

16. The intervention application is also disposed of.

(MANISH PITALE, J.)