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MHCC020169542022



**IN THE COURT OF SESSIONS FOR GREATER MUMBAI AT MUMBAI
ANTICIPATORY BAIL APPLICATION NO. 2765 OF 2022**

Mr. Rajesh Krushnan Nair]
Age : 52 years, Occ.: Business,]
R/at:B/102, Usha Garden Co-op Housing Society,]
Ahinsa Marg, Malad (W), Mumbai – 400 065.]...Applicant/accused

Vs.

The State of Maharashtra]
(Through DCB-CID, Unit 1, Mumbai)] Respondent

Appearance :-

Mr. Ashok Saraogi, Ld. Advocate for the Applicant/accused.
Ms. Jyotsana Gawali, Ld. APP for the Respondent/State.
Mr. Rushikesh Kale, Ld. Advocate for the intervener.

**CORAM : H. H. THE ADDL. SESSIONS JUDGE,
SHRI A.A. KULKARNI (C.R. NO.24)**

DATED : 20TH FEBRUARY, 2023

(O R A L O R D E R)

(Dictated and pronounced in the open Court)

This is an application under Section 438 of Cr. P.C. for anticipatory bail. Heard Ld. Advocate for applicant, Ld. APP for the State and Ld. Advocate for intervener. Perused the application, say and documents on record.

2. It is contention of Ld. Advocate for applicant that Crime No.307/2022 is registered against applicant for offence punishable under Sections 406, 420 of IPC. It is further contended that in FIR

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informant alleged that applicant represented himself that he will financial assistance to the tune of Rs.50 crores and in lieu collected amount of Rs.35,01,625/- from informant and later on failed to provide financial assistance as promised and thereby committed cheating to informant. Accordingly, police issued notice to applicant under Section 41(1) of Cr. P.C. on 9.12.2022. Therefore, applicant is having apprehension of his arrest. It is further contended that applicant is doing business in the name and style of M/s. Solutions At 360. Informant approached applicant for getting financial assistance. Accordingly, informant issued letter dated 9.09.2016 and 19.09.2016. It is further contended that there was condition of mortgage of property. Informant failed to provide NOC in format from earlier financier. Therefore, applicant could not arrange financial assistance to informant and therefore the dispute between applicant and informant is of civil nature. It is further contended that police authorities have closed complaint of informant being civil dispute. Later on, informant has not filed any application before competent Court for issuance of directions for investigation under Section 156 of Cr. P.C. and suddenly police have registered offence in the year 2022 which prima facie creates doubt about intention of police authorities. Hence, applicant is having apprehension of his arrest. Hence, prayed for grant of bail in the event of his arrest.

3. Ld. APP and investigating officer opposed application. It is their contention that documents supplied by informant are disappeared by applicant. There was MOU between applicant and informant which is also disappeared. Informant has paid amount of Rs.35,01,625/-. Applicant is not having permanent address at Mumbai. He failed to appear for investigation. No amount is in credit of applicant in his bank

account. Hence, prayed for rejection of application.

4. Original informant also opposed the application and prayed for rejection.

5. In view of submissions from both the sides and on going through the documents filed on record, it is clear that informant approached to applicant for financial assistance. There was MOU between them. Accordingly, informant paid amount of Rs.35,01,625/-. In view of nature of allegation and submission that earlier complaint filed by informant has been closed by mentioning that it is civil dispute without permission of Court or without direction of Court on same ground. Present offence is registered by police without giving its justification. Prima facie it appears that it is civil dispute between parties. In such circumstances, I am of the opinion that all the case of informant is based on documentary evidence. Documents are available with him as well as with police. For further investigation if presence of applicant is required, he may be directed to appear before police. Therefore, I am of the opinion that in the event of arrest, applicant is entitled to be released on bail. Hence, I pass following order :-

ORDER

1. Anticipatory Bail Application No.2765 of 2022 is allowed.
2. In the event of arrest in Crime No.307/2022 registered with DCB-CID, Unit 1, the applicant Rajesh Krushnan Nair be released on bail on execution of P.R. bond of Rs.1,00,000/- with one or two sureties in the like amount each on following conditions :-
 - a) Applicant shall attend DCB-CID, Unit 1 office for two days in week i.e. on Monday and Friday between 11.00 a.m. to 2.00 p.m.

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for the period of three months and co-operate investigating officer in investigation.

- b) Applicant shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any Police Officer.
 - c) Applicant shall not leave India without previous permission of the Court.
3. Anticipatory Bail Application No.2765 of 2022 is disposed of accordingly.



Date : 20.02.2023

[A.A. KULKARNI]
ADDITIONAL SESSIONS JUDGE
GREATER MUMBAI

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“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.”		
Upload Date	Upload Time	Name of Stenographer
21.02.2023	2.55 p.m.	PRAJWALA V. PHODKAR

Name of the Judge (With Court Room No.)	HHJ SHRI. A.A. KULKARNI (CR 24)
Date of Pronouncement of JUDGMENT /ORDER	20.02.2023
JUDGMENT /ORDER signed by P.O. on	21.02.2023
JUDGMENT /ORDER uploaded on	21.02.2023