IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.688 OF 2015
with
CRIMINAL APPLICATION NO.474 OF 2015

Santosh Sheshdhar Tiwari ... Applicant

Vs.

The State of Maharashtra ... Respondent

Mr.E.B. Dixit i/b P.R. Yadav for the Applicant

Ms.Veera Shinde, APP, for Respondent – State
Mr.H.H. Shivdasani for Intervener in APPP/474/2015

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **JULY 1, 2015**

P.C.:

1. This application is moved for pre-arrest bail in relation to C.R. No.I-70 of 2015 at Sinnar police station, Nashik for the offences punishable under sections 420, 465, 467, 468, 471, 476, 408, 506 r/w 34 of the Indian Penal Code. The complaint is lodged at the instance of one Mahendra Pratap Singh working with New Golden Transport Company has given information to the police pursuant to which the complaint was registered. It is the case of the prosecution that New Golden Transport Company is based in Delhi having its branch office at Sinnar, Nasik wherein one Avinash Shukla, co-accused, was appointed as a manager and other accused Pravin Singh was appointed as a manager at Waluj, Aurangabad.

The complainant is an in-charge of Mumbai office of the New Golden Transport Company. The company deals with the business of transportation of the goods. The company hires vehicles and those vehicles are provided to the customers. The managers of the company in different areas place orders and demand money from the company for the vehicle. Accordingly, the company issued cheques in the name of the managers to hire the trucks and thereafter the managers were supposed to send the money which is received out of transportation. It is the case of the prosecution that the present applicant/accused is the brother in law of Avinash Shukla. He alongwith Pravin Singh and Avinash Shukla created 3 bogus companies and in the name of those companies, orders were placed and communicated to the main office of New Golden Transport Company. The cheques were received for hiring trucks from the company in the account. However, no trucks were hired. There was no transportation of the material though it is shown that the goods were transported and out of the total received amount, some amount was returned as received from the business of transportation. The officers of the company smelled foul play and, therefore, they verified the business of the company at Aurangabad and Sinnar offices. At that time, they found that three fictitious companies were created and in fact, no business was done through these companies. However, huge amount was transacted from the company's account to the other company. Anoop Trans Solutions is the company of the applicant/accused and in his account, an amount of nearly Rs.58,55,000/- was entered. Hence, the complainant found that Avinash Shukla, the co-accused Pravin Singh and the present applicant/accused all have made false representation in the name of three bogus companies, namely, Indmark Formtech, Rohan Housing Pvt. Ltd. and Kings Plast Pvt. Ltd. They also created bogus records and duped the company, in all for about Rs.1 crore.

2. The learned Counsel for the applicant/accused has submitted that the applicant is innocent. He is in fact the owner of Anoop Trans Solutions company and whatever amount he received, it was circulated and repaid in the name of New Golden Transport Company. It is further submitted that the present applicant/accused has lodged the complaint against the officers of the New Golden Transport Company which is registered at C.R. No.I-126 of 2015 on 8.3.2015 at Nigdi police station for kidnapping his brother in law and the co-accused Avinash Shukla. He submitted that the officers of the company have kidnapped his brother in law and thereafter, this complaint was lodged. He submitted that he is in the business of transport. He has not committed any fraud. He is falsely implicated in the present case.

3. The learned Prosecutor and the learned Counsel for the complainant have opposed the application. It is submitted that from the

account of the New Golden Transport Company, the cheques were received by Anoop Trans Solutions. It is submitted that the money was directly received from New Golden Transport Company by Anoop Trans Solutions for the purpose of hiring trucks. It is further submitted that the role of the applicant/accused in the entire fraud is active. Some amount was repaid by the manager to the New Golden Transport Company. However, considering the role of the applicant/accused, he has defrauded the company to the tune of Rs.58,55,000/-.

4. Perused the complaint and other documents so also the complaint lodged by the applicant/accused for missing of Avinash Shukla. It appears from the record that three companies which were opened by the applicant/accused and the other co-accused are bogus and there is money transaction from the main company to the account of Anoop Trans Solutions. Prima facie, it shows that there was no business for the company as represented by the applicant/accused and the co-accused and the money was siphoned by the applicant/accused and the co-accused for their benefit and thus, as it is a case of cheating, I am not inclined to grant pre-arrest bail.

5. In the circumstances, the application is rejected.

(MRS.MRIDULA BHATKAR, J.)