IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 979 OF 2015

Sanjeev Chandan .....Applicant
V/s.
The State of Maharashtra ....Respondent

Mr. Filji Frederick a/w Ms. Bhumika Khandelwal i/b FF & Associates for Applicant
Ms. Sandhya Mailagir i/b Mr. Anil D. Joshi for original complainant
Mr. Y. M. Nakhwa APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : 20th JULY 2015

PC :

Heard. This is an application under section 438 of Code of Criminal Procedure, 1973. Applicant herein is apprehending his arrest in crime no. 39 of 2015 registered at C.B.D. Belapur Police Station for offence punishable under section 420 of Indian Penal Code.

2) It is the case of prosecution that on 10/03/2015, Kiran Makre, on behalf of Seashell Logistic Private Limited lodged a report at the police station alleging therein that on 22/11/2014, M/s A. S. Food, a proprietory firm of the present applicant had placed an order of Yellow corn (Indian yellow maize) was to be transported to Malaysia. Company had given the quotation to the applicant, laying down the terms and conditions for the said job. Applicant

had agreed with all the terms and conditions and thereafter had placed the order. Company had purchased 100 containers of yellow maize and the same was stored in the godown at Chennai. On 04/12/2014, complainant company had demanded amount of Rs. 15,00,000/- by e-mail. Company was also informed to pay charges towards detention and storage, forthwith, however, applicants firm had neither replied the e-mail nor made any payments. The corn was stored at Chennai till 17/12/2014. The godown had charged Rs. 30,00,000/- and hence, complainant company had made a demand of Rs. 79,21,880/-. On 18/12/2014, M/s A.S. Food had paid Rs. 10,00,000/-. The corn was transported on 20/12/2014 to Chennai port. The corn was sent to Malaysia by ship. They had received the bill of loading of Rs. 40 containers. There was a delay in transportation. It was agreed between the parties that any loss accrued in the course of transportation would be borne by M/s A. S. Food. On 21/01/2015, demand was made, the proprietory firm of the applicant had issued two cheques. The said cheques were dishonoured. Complainant company had persistently demanded the payments. They had tried to locate present applicant, but to no avail. Complainant was therefore, constrained to lodge a report against present applicant.

3) Perused papers of investigation. Learned APP has drawn the attention of this Court to the statement of one A. V. Ashok Kumar who happens to be marketing manager of P.E.C. Ltd. Delhi. It was revealed in the course of investigation that applicant had submitted an indemnity bond purportedly issued by P.E.C. Ltd, wherein Malaysian company agreed to indemnify for the loss due to aforesaid request and pay all the expenses incurred at port on loading and discharging (including but not limited to the storage, detention and demurrage fee) Investigating Officer had recorded the statement of Shri. A. V. Ashok Kumar who works as marketing manager of P.E.C. Ltd. Delhi and he has categorically stated before the police that the said indemnity bond placed on record by the accused/applicant was not issued by his office. It is reported that they are investigating into it and at appropriate time, would file F.I.R. Present applicant had also written a letter to the Senior Inspector of Crime Branch on 25/06/2015, wherein he has stated that "over the last 3 years, we have been issuing on behalf of P.E.C and P.E.C. is a recipient all these letters and is aware of the act of the applicants company". He has further submitted that he has instructions to issue such letters which are in the form of oral instructions. P.E.C. has specifically stated that no such

instructions were given to the applicant.

4) Learned counsel for the applicant submits that the dispute is in respect of detention and storage charges and it is a matter which can be amicably settled. It appears from the recitals of F.I.R. that even after dishonour of cheque, applicant along with complainant and lawyers engaged by the applicant had made efforts and had assured complainant company that they shall execute memorandum of understanding, however, no effective steps seem to have taken by the present applicant. It is apparent on the face of record that at the inception itself, applicant had the intention to cheat the complainant. Complainant company had requested the applicant to make advance payment prior to transporting. Complainant was never informed that said goods would have to be stored in the godown for the period from 04/12/2014 to 20/12/2014. Complainant had to pay detention charges.

5) Upon perusal of papers of investigation, there is sufficient material to hold, at this stage, that applicant had the intention to cheat the complainant. In view of this, applicant does not deserve bail and application deserves to be rejected.

<u>O R D E R</u>

(i) Application, being sans merits, stands rejected.

(SMT. SADHANA S. JADHAV, J.)