IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1712 OF 2015

Fahad Mohammed Khan ..Applicant
Vs.
The State of Maharashtra ..Respondent

Ms.Anjali Awasthi for the Applicant.
Ms.S.D.Shinde, APP for Respondent-State
API B.R.Kanawade for Pydhonie Police Station

CORAM : A.S. GADKARI, J.

DATE : 17th December 2015.

P.C.

1. The Applicant is apprehending arrest in C.R No. 455 of 2015 dated 8th October, 2015 registered with Pydhonie Police station, Mumbai under Sections 408, 411 read with Section 34 of the Indian Penal Code.

2. The complainant Shri Ashok Nagpal has lodged the First Information Report report dated 24th September, 2015. The Complainant is owner of the M/s. Fastlink Connection Pvt. Ltd. The Complainant is stockists and distributor of Samsung Mobiles for South Mumbai. That the applicant was one of his employees and the job of the applicant was to take the orders from the customers and to give the delivery of mobile phones to them. The Complainant has further stated that he has employed about 50 workers in the said establishment. The applicant is one of his workers. It was the job of the applicant to take orders from the retailers and to supply them the mobile hand sets after taking the delivery

of the same from said M/s.Fastlink Connection Pvt. Ltd.

3. Mr Azhar Sheikh is one of the retailer / dealer of the Samsung Mobile phones. He used to take the mobile phones from Mr. Ashok Nagpal for selling it through the applicant and other employees. As said Mr. Azhar Sheikh did not make payment of the earlier deliveries to Mr.Ashok Nagpal. It was specifically instructed to the applicant and other accused persons by the complainant that, not to have any transaction with the said Mr. Azhar Sheikh unless and until he clears the earlier dues. The FIR further states that despite the said instructions the applicant and other accused persons took the delivery in the name of other companies and gave the material i.e. the mobile phones to Mr.Azhar Sheikh. The applicant has received commission for the said transaction. When the complainant came to know that an amount of Rs.20,21,882/- has not been received by his Company from the various dealers, he conducted inquires and there after it was revealed that the applicant and other accused persons have given mobile phones for onward sale to said Mr.Azhar Sheikh. The complainant also realised that the applicant and accused persons have committed his criminal breach of trust. In the circumstances the said FIR has been registered.

4. The learned counsel for the applicant submitted that as far as the other accused persons namely Mr.Brijesh Babulal Prajapati, Mr. Santosh Gupta and Mr. Azhar Shaikh are concerned, they have been released on regular bail by the trial Court. She further submitted that the applicant is not the beneficiary of the alleged crime proceeds. She further submitted that the custody of the applicant is not at all necessary for the

further investigation.

5. I have perused the FIR and the other documents annexed to the Application. The FIR makes it aptly clear that despite specific instructions from the owner / employer, the applicant has for personal monetary benefits supplied the goods i.e. the mobile hand sets to accused Mr.Azhar Sheikh. The payment of the same was not recovered from Mr.Azhar Sheikh by the applicant. The applicant prima facie is beneficiary of the commission which Mr. Azhar Sheikh had given to the present applicant. The record further discloses that the applicant was not traceable for considerable period. In my considered opinion the custodial interrogation of the applicant is necessary to unearth the truth behind the crime. *Prima facie* the applicant has committed criminal breach of trust of the employer and the allegations against the Applicant are serious in nature. The applicant therefore does not deserve any sympathy by way of pre-arrest bail. I find no merits in the present application and the application is rejected.

(A.S. GADKARI,J.)