IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.90 OF 2016

Bhupinder Singh Sawhney ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. L.M. Grovar i/b. Mr. Hardik Vyas for the Applicant.
Mr. Arfan Sait, APP for the Respondent -State.
Mr. Jagdish Dharme, PSI, Ichalkaranji Police Station, present.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 25th FEBRUARY, 2016.

P. C. :

This is an application for anticipatory bail filed by the aforesaid Applicant, apprehending his arrest in Crime No. 40 of 2013 registered at Ichalkaranji Police Station, District-Kolhapur, for offences punishable under sections 406 and 420 r/w. 34 of the IPC.

2. The said crime was registered pursuant to the FIR lodged by Madhukumar Surendrakumar Jain. The allegations against the Applicant in brief are that the first informant had supplied cloth material worth Rs.2,88,90,970/-to Koutons Retail India Ltd. of which the Applicant herein is the Managing Director. It is alleged that the Applicant herein had issued several cheques towards the price of the

said material supplied to him. Said cheques were dishonoured. The first informant contacted the Applicant herein and requested to make the payment, but apart from giving assurances the Applicant did not take any concrete steps to make the payment. Having realised that he was cheated to the tune of Rs.2,88,90,970/-the first informant lodged a FIR before the Ichalkaranji Police Station, District-Kolhapur, pursuant to which the aforestated crime came to be registered. In apprehension of his arrest in the said crime, the Applicant had filed an application for bail before the Sessions Court, Ichalkarnji. Said application came to be rejected by order dated 9.7.2015. Hence, the present application.

3. Mr. Grovar, the learned counsel for the Applicant submits that there is inordinate delay in lodging the complaint. He has further submitted that the dispute between the first informant and the company is basically of civil nature and that the presence of the Applicant is not required for custodial interrogation. He has submitted that the Applicant will join investigation and is ready to abide by all the terms and conditions imposed by the Court.

4. Mr. Arfan Sait, the learned APP has stated that the FIR prima facie discloses that the Applicant herein has cheated the complainant to the tune of Rs.2,88,90,970/-. The learned APP has

further submitted that the Applicant has not joined the investigation and has not cooperated with the investigation. He has submitted that the nature of the allegations levelled against the Applicant warrants custodial interrogation.

5. I have perused the records and considered the submissions advanced by the learned counsel for the Applicant and the learned APP for the Respondent-State. The FIR lodged by Madhukumar Surendrakumar Jain prima facie indicates that he is one of the partners of Rajlakshmi Sythetics Firm, which deals with business of sale of cloth material. In the year 2006 he got acquainted with a broker by name Kailash Malhotra, who introduced him to the present Applicant, the Managing Director of Koutons Retail India Pvt. Ltd. After initial negotiations the Applicant placed an order for cloth material worth Rs.2 crore. The first informant initially supplied the cloth material worth Rs.50 lakhs and he received the payment for the same. Subsequently between 9.8.2009 to 4.12.2009 the first informant supplied cloth material worth Rs.1,37,82,116/-, details of which are given in the FIR. The Applicant herein in the capacity of Managing Director of the said company issued several cheques towards price of the said cloth material. Said cheques were dishonoured for insufficient

funds. The first informant returned the said cheques to the co-accused Kailash Malhotra with a request to issue fresh cheques. In the meantime, the company Koutons Retain India placed another order of cloth material for approximately 1.5 crors. The first informant once again supplied cloth material worth Rs. 1,53,20,663/-. The details of which are given in the FIR. The Applicant herein once again issued several cheques for different amounts. The said cheques were once again dishonoured.

6. The statement of the first informant prima facie reveals that he had contacted the co-accused Kailash Malhotra and informed him about the dishonour of said cheques. The co-accused assured him that they would issue fresh cheques within a period of one month and informed him that the cheques amount would be paid and had requested him not to initiate proceedings under section 138 of the Negotiable Instruments Act. The FIR prima facie reveals that since the first informant had not received any money within a month, he once again contacted the co-accused Kailash Malhotra and he was called to Delhi to meet the present Applicant. However, when he went to Delhi and tried to contact the Applicant herein, he was informed that the Applicant had gone abroad. He made several trips to Delhi to receive

the money, however, he was unable to meet the Applicant and finally when he contacted the Applicant, he gave him evasive replies.

7. The material on record prima facie reveals that the Applicant had induced the first informant in supplying the cloth material total worth Rs.2,88,90,970/- on a false assurance that he would pay the consideration. The FIR prima facie reveals that the Applicant has failed and avoided to make the payment and thereby caused wrongful loss to the first informant to the tune of Rs.2,88,90,970/-. The FIR thus, prima facie discloses the essential ingredient of cheating.

8. The records reveal that the Applicant herein has not joined the investigation till this date. It is also reported that the Applicant is presently in custody in another crime. The nature of allegations levelled against the Applicant and his criminal antecedents, in my considered view would not justify grant of pre-arrest bail.

9. Under the circumstances, the application is dismissed.

(ANUJA PRABHUDESSAI, J.)