IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPEALLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 463 OF 2016

Mayur Vinubhai Moradiya .. Applicant
Versus
The State of Maharashtra & Anr. .. Respondents

Mr. Diwakar Singh, Advocate for the Applicant.
Ms. Rutuja Ambekr, A.P.P. for the Respondent – State.
Mr. Hrishikesh Chavan, Advocate for Respondent No.2.

CORAM : N.W. SAMBRE, J.

DATED : 24th NOVEMBER, 2016.

P.C. :

1 The applicant is seeking pre-arrest bail in Crime No.129 of 2015 for the offences punishable under sections 406 r/w. 34 of the I.P.C.

2 For an incident dated 04.08.2014 to 26.08.2014. It is the case of the complainant Amitkumar that the accused persons Sheetal and Lokesh Jain (Kunawat Jain) add to him place certain order for purchase of diamond part of which was delivered by the complainant Amitkumar through one Mayur Moradiya, who is applicant before this Court.

3 There ensured the dispute for the payment of diamond as such a Civil Suit for recovery is filed by co-accused Sheetal against Amitkumar which is pending before this Court. It is then claimed that the Sheetal thereafter through the present applicant sold certain diamonds to the complainant Amitkumar which is bone of dispute in the present case.

4 While opposing the grant of bail, the learned A.P.P. inviting my attention to the invoice dated 23.01.2015 by relying upon the provisions of Section 73 of the Evidence Act submits that the invoice bears the signature of the present applicant as could be verified with naked eye. The other contention is the original complainant who has also signed the said invoice has denied his signature. As such this Court should not insulate the applicant for his arrest in an economic offence.

5 What is to be gathered from the contents of the F.I.R. that the applicant is not named as an accused nor any role is attributed to the applicant at the behest of complainant Amitkumar. The prosecution story appears to be that Amitkumar complainant and his supplier Mayur Moradiya in connivance with each other has practiced fraud on Sheetal from whom already diamonds were delivered to the complainant.

6 It is not in dispute that in the Civil Suit for recovery, the Court will be going into the issue as regards the liability of the complainant to pay the amount as claimed. However, so as to ascertain whether there is a prima facie case against the present applicant for his involvement in the present crime, in my opinion, there is hardly any material to connect him. The learned A.P.P. was assisted by the learned counsel for the complainant though has asserted that the Court is required to look into beyond the case diary so as to find out the nature of fraud practice however having gone into the contents of the case diary including F.I.R. I hardly see any reason to deny the relief to the applicant.

7 In view thereof, the application stands allowed. In the event of arrest, the applicant be released on bail on furnishing P.R. Bond of Rs.2,00,000/- with one or two sureties in the like amount. The applicant shall attend police station on 2nd, 5th and 7th December, 2016 between 10.00 a.m. to 12.00 noon and thereafter as and when called. The applicant shall not tamper with the evidence or influence the witnesses. As the applicant is operating from Hong Kong it will be appropriate to direct the applicant to furnish his permanent place of address in Hong Kong and also present place and contact number so as to contact him in India on the first date of his appearance before the Investigating Officer.

(N.W. SAMBRE, J.)