IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1503 OF 2015

Bhupender Singh Sawhney ... Applicant
vs.
The State of Maharashtra and Another ... Respondents

Mr. L.M. Grover a/w. Mr. Hardik Vyas, for the Applicant.
Mrs. Rutuja Ambekar, APP for Respondent – State.
Mr. Ravindra Avhad (P.I.), Kasturba police station present.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **5th APRIL, 2016**

P.C.:

. The application is moved for pre arrest bail as the applicant/accused is facing charges for the offences punishable under Sections 507 and 420 read with 34 of the Indian Penal Code in C.R. No. 266 of 2013 registered with Kasturba Marg police station, Mumbai. The offence is registered at the instance of one Nirmal Kotecha on 17th February, 2013.

2. It is the case of the prosecution that the complainant and his brother Ronak both were running a business by name "Skyline

Port Folio Services Pvt. Ltd." In the year 2011 they were informed by one Rajiv Khandelwal that their company is in need of money and they have some imported cars which they wanted to sale to raise funds. So the complainant and his brother Ronak had been to Rajiv Khandelwal. At that time the complainant was introduced with the applicant/accused and one Mr. DPS Kohli as the Managing Directors of the company by name "Qutons Retail India Ltd." The complainant was told that they wanted to sale five imported cars. The complainant thereafter purchased the cars from the applicant/accused and he paid Rs. 2 Crores by R.T.G.S. in the account of applicant/accused against which the applicant/accused handed over photocopies of documents of BMW, Range Rover and Bently cars and also RTO forms and asked him to transfer it in the name of complainant. It is further case of the prosecution that thereafter the brother of complainant Ronak gave cheque of Rs. 2 Crores in favour of Mr. DPS Kohli for the purpose of car and the documents were given to Ronak. However, nearly for two months thereafter, the ownership of the cars were not transferred in the name of the complainant. On verification, the complainant and his brother Ronak found that the applicant/accused has sold his two cars i.e. Range Rover and Bently cars to some other persons though he has accepted money and BMW car was hypothicated with one finance company. When the complainant contacted the applicant /accused and inquired about this, the applicant gave him Rs. 25 lacs and also handed over some cheques amounting to Rs. 2 Crores. It is the case of the complainant that all the said cheques are bounced. Hence, he filed this complaint.

3. The learned counsel for the applicant/accused submitted that another complaint is filed against the applicant/accused vide C.R. No. 674 of 2013 registered with Saharanpur police station, Uttar Pradesh for the offences punishable under Sections 420, 467, 468, 471, 120(B), 504 and 506 of Indian Penal Code in respect of payment of Rs. 2 Crores by cheque. However, it was filed by one Sanjay Dwivedi who is the Manager of “Mark port Pholio Services” which is running by Mr. Ronak. It was submitted by the learned counsel for the applicant/accused that as per the said C.R No. 674 of 2013 there was a promise of the sale of land at Saharanpur for Rs. 2 Crores. However, transaction did not take place and the complainant in that crime was cheated and hence first information report was registered. The learned counsel further submitted that the cheque of Rs. 2 Crores

given by Mr. Ronak is the same cheque which is mentioned in the present C.R. No. 266 of 2013 for the car transaction. He submitted that the learned Sessions Judge at Saharanpur granted bail to the applicant/accused in that crime. It is further submitted that there cannot be two offences registered for the same act. The applicant/ accused is innocent and he has not committed any offence. He requested to grant pre arrest bail to the applicant/accused.

4. The learned prosecutor while opposing the application relied on the affidavits filed by Mr. Kiran Kale (P.I.) dated 29th October, 2015 and 11th December, 2015. She submitted that the cheques of Rs. 2 Crores which is used for the purpose car transaction and the land transaction at Saharnpur are one and the same. However, she submitted that in the present crime, the payment is made through R.T.G.S. by the complainant to the applicant/accused for purchase of cars wherein C.R. No. 266 of 2013 is registered. At present the applicant/accused is in Tihar jail. She submitted that the custody of the applicant/accused in this crime is required as he has cheated many persons.

5. Perused the first information report, other relevant documents, the order passed by the learned Judge at Saharnpur and the affidavit filed by the Police Inspector. Considering the submissions of both the parties, it is true that in respect of a cheque which was given by Mr. Ronak two different offences are registered. The offence registered at Saharanpur, U.P. and the offence registered in the present crime are same. However, the cheques for the re-payment of Rs. 2 Crores made by the applicant/accused to the present complainant are bounced. Moreover, as per the first information report and police report, the cars which were promised to sale, out of them two cars were sold to two different persons, after receiving the amount from the complainant. The applicant/accused is having criminal antecedents. The portion of the first information report appears to be incorrect. However, *prima facie* the evidence on record shows that the transaction between the complainant and the applicant/accused has taken place. Hence, considering the allegations made against the applicant, I am not inclined to grant pre arrest bail to him.

6. Hence, anticipatory bail application stands rejected.

7. The learned counsel for the applicant/accused wants to challenge the order before the Hon'ble Supreme Court. Hence, the interim protection granted earlier to continue till 2nd May, 2016.

(MRS.MRIDULA BHATKAR, J.)