

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1824 OF 2016

Manish Surajmal More ... **Applicant**

V/s.

The State of Maharashtra ... **Respondent**

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Mr. V.V.Pethe, Advocate for the Applicant.

Smt. J.S.Lohokare, APP for the Respondent/State.

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CORAM : N.W.SAMBRE, J.

DATED : 9th December, 2016.

P.C.

1 The Applicant is seeking pre-arrest bail in Crime No.237 of 2016 for the offence punishable under Sections 406, 420, 506 read with Section 34 of IPC.

2 Perusal of the FIR and other material depict that the applicant was partner of complainant which partnership business commenced in 2012.

3 It is the case of the prosecution that the though the Applicant has issued cheque of Rs.1,20,12,000/-, the same was dishonoured. It is further claimed that the present applicant has practised fraud resulting into the registration of the crime in question.

4 The counsel for the Applicant urged that the partnership firm has run into losses and the complainant being partner of the present applicant is not an issue under dispute. According to him, contractual differences in view of agreement of partnership has been tried to be given shape of criminal offence. According to him, remedy to recover an amount is an issue which can be gone into civil proceedings and the present proceeding cannot be used for the purpose of recovering an amount as per the partnership.

5 The learned APP submits that custodial interrogation is a must as admittedly complainant holds a cheque issued by the present applicant, which was dishonoured and the custodial interrogation is necessary having regard to the large scale misappropriation in the partnership business.

6 Having bestowed my thoughts to the submissions made, it is required to be noted that the complainant and the applicant in 2012 entered into partnership of firm namely, M/s. Universal Mineral. It appears that in the said business, the applicant has suffered loss whereas the Complainant pursuant to his investment claim to be holding cheque for Rs.1,20,12,000/- . So far as the dishonour of the said cheque is concerned, admittedly, the complainant has not initiated any proceedings.

7 From the overall consideration of the investigation carried out till date and other material as is placed on record, it can be easily inferred that differences in contractual relationship between the

complainant and the applicant is given colour of the present offence for the purpose of recovery of amount.

8 In view of above, in my opinion, custodial interrogation of the present applicant is not warranted. Hence, in the event of arrest, the Applicant shall be released on executing PR Bond in the sum of Rs.50,000/- with one or two sureties in the like amount. He shall surrender his passport forthwith to the Investigating Officer. He shall attend the police station on 15th and 16th December, 2016 between 3 p.m. to 5 p.m. and thereafter as and when called. He shall not tamper with the prosecution evidence and/or influence the prosecution witnesses.

9 The application stands disposed of as allowed.

(N.W.SAMBRE, J.)