

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE

ANTICIPATORY BAIL APPLICATION NO. 396 OF 2017

Amit @ Ghanshyam Kumar Soni Vs. State of Maharashtra

**Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders.**

Court's or Judge's orders

Mr. Parmar i/b Shukla Devmani Jagdish for Applicant.
Mr. M.G. Pati, APP for State.

CORAM : A.S. GADKARI, J.

DATE : 21st April 2017.

P.C.:

1] The applicant is apprehending arrest in CR. No.15 of 2017 dated 18.1.2017 registered L.T. Marg Police Station, Mumbai under Section 420 and 506(2) read with 34 of the Indian Penal Code.

2] The first information report is lodged by Shri Prabhakar Kapas. It is stated that under the directions of the applicant the first informant prepared 1300 grams gold ornaments of 22 carat purity and as per agreement, the applicant was suppose to give 1235 grams of 24 carat gold or Rs.35 lakhs to the first informant. It is stated that the first informant complied with his part of obligation and when he went to the place of the applicant for demanding the said gold or in lieu of it the said sum, it was found that the applicant had closed his office and was not traceable. In the premise the first information report is

lodged.

3] The learned Counsel for the applicant submitted that it is purely a civil transaction between two parties and mere breach of contract will not be termed as an offence. He submitted that as a matter of fact the applicant has returned 1235 grams of gold. He submitted that the first informant does not have any documentary proof to establish his claim and in the absence of the said proof, the allegations levelled against the applicant cannot be substantiated. He therefore submitted that the applicant may be granted pre-arrest bail.

The learned APP submitted that the applicant was not available at the address mentioned in the cause title of the application. There is no recovery of the alleged defalcated gold at the instance of the applicant and the Investigating Agency is yet to recover the same and the same is not possible without thorough investigation and custodial interrogation of the applicant.

4] I have perused the record of investigation. It appears from the record that the police have seized cheques signed by the applicant thereby acknowledging the liability to give aforesaid gold to the first informant. Prima facie it appears that there is material available against the applicant with the Investigating Agency which requires thorough investigation. It further appears that the applicant since inception was having an intention to commit offence of cheating and in pursuance thereof and in connivance with co-accused he committed the aforesaid offence.

5] After taking into consideration the serious nature of allegations against the applicant and the gravity of offence, this Court is of the view that the applicant does not deserve to be protected by pre-arrest bail. The application is accordingly rejected.

(A.S. GADKARI, J.)