

Nalawade

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 578 OF 2017
WITH
CRI. APPLICATION NO.327 OF 2017
Mehfooz Mehmood Khan vs. The State of Maharashtra

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. M. R.Chouhan for the Applicant.

Mr.I.J.Nankani and Miss Deepa Shetty i/by M/s. Nankani &Associates.

Mrs.P.P.Shinde, APP. for the State.

CORAM :A.S.GADKARI, J.

DATE : 28th April, 2017

P.C.

- 1) The applicant was granted interim relief by an order dated 5.4.2017.
- 2) Heard the learned counsel for the applicant, the Lenard counsel for the intervener and the learned APP and also perused the record of investigation.
- 3) The first information report is lodged by Pravindasingh Katariya who is the Director of the Argas International Marketing Private Ltd. It is the case of the prosecution that the applicant represented the informant that he is trader in polymer material i.e. plastic raw material and assured the first informant that he will provide 92 Metric tons of the said polymer material. Believing on the representation made by the applicant to

the company, the first informant advanced an amount of Rs.68/- lacs to the applicant and the mediator, co-accused. That as the applicant was unable to either provide the goods as agreed or refund the amount accepted by him from the first informant, the applicant gave two cheques worth of Rs.48.00 lacs to the informant. That the said cheques were dishonoured on presentation. In the premise, the first information report is lodged.

4) The learned counsel or the applicant submitted that the first informant has converted a civil transaction into a criminal complaint. That, the dispute between the parties is of civil nature. He further submitted that the applicant had given the said cheques to the first informant as and by way of security for completing the transaction, however, the first informant has misused it by presenting the same for realization. He further submitted that as a matter of fact the applicant is entitled to recover more amount from the first informant company. He further submitted that inter-se exchange of communication between the parties would reveal that the parties were negotiating with the transaction for settlement. However, as the same could not succeed the first informant has lodged false and bogus complaint against him. He further submitted that though it is alleged that the present offence involves huge amount, according to him for recovery of the same custodial interrogation of the applicant is not necessary. He therefore, prayed that the applicant be

granted pre-arrest bail.

6) The facts mentioned in the first information report are self-eloquent. The record reveals that though the applicant was not in a position to supply the goods promised by him, he misrepresented the first informant about the same and accepted huge amount from it. It appears from the record that the applicant since inception was having no intention to provide the goods and had the intention to commit the offence of cheating. It further prima facie appears that the modus operandi adopted by the applicant along with the co-accused was well planned and in pursuance thereof the present crime is committed. The police are yet to seize the alleged trucks whose numbers were given by the applicant to the first informant. The investigation in the present crime is at nascent stage. As stated earlier the applicant since inception had intention to commit the present offence and in view thereof, the applicant does not deserve to be protected by pre-arrest bail.

6) After taking into consideration the serious allegations against the applicant and the gravity of the offence, the applicant does not deserve to be protected by way of pre-arrest bail.

7) Application is accordingly rejected.

7) In view of the disposal of present application the intervention Application No.327/2017 does not survive and is accordingly disposed off.

8) At this state the learned counsel for the applicant submitted that his client is intending to test the correctness of the present order before the Hon'ble Apex Court and therefore, interim relief granted by an order dated 5.4.2017 be continued for a period of two weeks. At his request interim relief is continued for a further period of two weeks from today.

(A.S.GADKARI, J.)