IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2124 OF 2017

Mukul Gupta s/o. Late Moti Lal & Anr. ... **Applicants**
V/s.
The State of Maharashtra & Anr. ... **Respondents**

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Mr.Jaideep Lele, Advocate for the Applicants.

Ms.P. P. Shinde, APP for the Respondent/State.

A.G.Saykar, PI, Shrinagar Police Station, Thane City is present in person.

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CORAM : A.M.BADAR J.

DATED : 6th DECEMBER 2017.

P.C. :

1 The applicants/accused in Crime No.I-193 of 2016 for offences punishable under Sections 406 and 420 read with Section 34 of the Indian Penal Code registered with Shrinagar Police Station, Thane, by this application, are seeking pre-arrest bail.

2 Heard the learned Advocate appearing for the applicants/accused. He argued that in July 2014, electric supply was disconnected and the entire material was in the furnace and therefore, the same could not be returned. Subsequently, on 11/03/2015, the Bank took possession of the entire property

where the copper was supplied. He drew my attention to the notice dated 11/03/2015 issued by the authorized officer of the Allahabad Bank issued under Appendix IV Rule 8(1) of Security Interest (Enforcement) Rules, 2002. It is further argued that thereafter on 05/05/2016, winding up petition came to be filed at the Honourable Calcutta High Court and now Official Liquidator has been appointed and, therefore, the material could not be returned. By drawing my attention to the Order rejecting anticipatory bail of the applicants by the learned Additional Sessions Judge, Thane, the learned Advocate argued that as Official Liquidator is appointed, now no recovery can be effected. With this, the learned Advocate prayed for anticipatory bail.

3 I have carefully considered the submissions and also perused the FIR of the subject crime.

4 Applicants are the Directors of M/s.Chandra Protecto Limited. Subject FIR is filed by Ganesh Tawari, Company Secretary of Emco Company Limited. Perusal of the FIR goes to show that way back in the year 2013 and 2014, copper rods were entrusted to the applicants by the Emco Company for processing and conversion. It is seen from the FIR that the applicants did not return 47779 Kg. of copper rods costing Rs.2,13,76,431/- to the Company of the First Informant. Similarly, it is averred in the FIR that an amount of Rs.5,00,086/- taken by way of advance is also not refunded to the Company/First Informant.

5 Notice of possession of secured assets issued by the authorized Officer shows that possession of non-agricultural land for industrial purpose mentioned in the possession notice was taken by the Bank. This appears to have been done after 11th March 2015. The winding up petition was admitted on 5th May 2016. The material was entrusted to the applicants way back in the year 2013 and 2014. *Prima facie*, it is seen that both applicants have cheated Emco Company Limited by not returning the material entrusted to them. Similarly, the amount of advance which is more than Rs.Five Lakh is also not refunded and the cost of the material is more than Rs.Two Crore.

6 In this view of the matter, no case for anticipatory bail is made out. The application is, therefore, rejected.

(A.M.BADAR J.)