

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.2575 OF 2016

Subhas Chand Mangelal Jain Applicant

versus

State of Maharashtra ... Respondent

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- Mr.Nitin Sejpal, Advocate for the Applicant.
- Mr.Sooraj S. Hulke, APP for the State/Respondent.
- API – Mr.B.D. Jagtap (Crime Branch Unit-II, Panvel, Navi Mumbai).

CORAM : MRS.MRIDULA BHATKAR, J.

DATE : 06th MARCH, 2017.

P.C. :

1. This is an application u/s 439 of Cr.P.C. moved for bail by the applicant/accused. The applicant/accused is prosecuted for the offences punishable under sections 407, 468 r/w 34 of the Indian Penal Code in C.R.No.I-31/16 of Navha Sheva Police Station.

2. One Anil Saychand Kawad gave information to the police that he was in the business of exporting embroidered

cloth. On 05/03/2016 he received the order from Nigeria. So he booked one container from C.M.A.C.G.M. Agencies Pvt. Ltd. Shipping Line to sent the embroidered cloth in a container to Nigeria. On 14/04/2016 he booked a trailer of one S. National Container. The container was loaded with embroidered cloth on a trailer which was taken by one Ghanshyam Gupta and one cleaner. The said container was sealed by the shipping company and so also Excise Department on 14/04/2016. The driver took the container on 14/04/2016 at night and went to Bhiwandi. The container reached on 16/04/2016 at Nhava Sheva. A gate-pass was issued to driver Ghanshyam Gupta.

3. On 18/04/2014 it was informed by the trailer owner Suraj Nanglia that the motor trailer alongwith container and driver are missing. On verification of the record it was found that the said trailer did not enter the port alongwith container. The motor trailer and container were not found in the vicinity at J.N.P.T. Port and so Anil Kawad approached the police and gave complaint. Pursuant to which the offence was registered and

police carried out investigation. They found the trailer and container at Atgaon, Nasik. However, they found empty container and trailer at Atgaon, Nasik. During the course of investigation police traced the applicant/accused, who is the resident of Delhi and has taken godown on rent from one Papankumar at Delhi and under panchanama dated 28/04/2016, the police found the cloth worth Rs.98,19,801/- approximately in the said godown. Thereafter under panchanama dated 29/04/2016 in the godown of one Atri Transport remaining embroidered cloth valued Rs.34,25,894/- was found and recovered under panchanama. Therefore offence was registered against the applicant/accused. He was arrested on 30/04/2016 from Delhi. Hence this application for bail.

4. The applicant/accused has submitted that the applicant/accused is innocent. He has not committed any offence. The driver and the cleaner both are absconding. He is in the prison since 30/04/2016. The Muddemal property is recovered. It is submitted that when he was in custody second

offence at C.R.No.192/15 dated 19/09/2015 of Uran Police Station u/s 407 r/w 34 of the Indian Penal Code was registered against him. However, he has no connection with the said offence. The learned counsel further relied on the order passed by this Court on 18/10/2016 in Criminal Bail Application No.1615/16 of one Mukesh Ramkaran Sharma who was granted bail.

5. The learned prosecutor opposed the bail application. He submitted that the applicant/accused is not only the receiver of stolen property, but he has committed forgery of bill book receipt book. He further submitted that besides this offence, the other offence is also registered against him. Entire offence is committed at the instance of the applicant/accused. The learned prosecutor submitted that role of Mukesh Sharma is different than the role played by this applicant/accused. Mukesh Sharma is the owner of one transport company namely Atri Logistic. He further submitted that co-accused i.e. the driver and cleaner are absconding and hence his bail not to be granted.

6. Perused the FIR. Perused the documents placed before me. The involvement of the applicant/accused, prima facie, is seen. However, the some quantity of the cloth is recovered from the applicant/accused and some from the Atri Godown. The other FIR is registered against the applicant/accused. However, it appears that when he was remanded to police custody on 08/05/2016 in the present case, he was immediately arrested on 09/05/2016 in the other C.R. No property is recovered in that C.R. from the applicant/accused. The applicant/accused is in prison nearly since last 11 months and therefore this application is allowed with following conditions :

ORDER

- (i) The applicant/accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.50,000/- with two sureties in the like amount i.e. one surety of Rs.25,000/- from Delhi and one local surety of Rs.25,000/- from District-Raigad, where the applicant/accused is residing.
- (ii) The applicant/accused shall attend all the Court dates.

- (iii) The applicant/accused shall not tamper with the evidence or pressurize the complainant.
- (iv) The applicant/accused shall not commit any offence of similar nature.
- (v) The applicant/accused shall take permission of the trial Court if he wants to leave India.

7. The application stands disposed of on above terms.

(MRIDULA BHATKAR, J.)