**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

**ANTICIPATORY BAIL APPLICATION NO. 164 OF 2017**

Umeshkumar Omprakash Kedia ….Applicant.

Vs.

The State of Maharashtra ….Respondent.

Mr. A.H. Ponda i/by Ashish Raghuvanshi for the Applicant.
Smt. Rutuja Ambekar APP, for the Respondent-State.

**CORAM : A. S. GADKARI, J.**
**DATE : 5th JUNE, 2018.**

**P.C.:-**

This is an Application under Section 438 of the Code of Criminal Procedure for pre-arrest bail in C.R. No. 162 of 2014 dated 16th October, 2014, registered with Dongri Police Station, Mumbai under Section 409 read with Section 34 of the Indian Penal Code and re-numbered C.R. No. 90 of 2014, which is being investigated by the Economic Offences Wing, Crime Branch, Mumbai.

2 Heard the learned counsel appearing for the Applicant and the learned APP. Perused the charge-sheet.

3 The prosecution case in nutshell is that, the principal accused namely Manoj Bagaria (Agarwal) was employed with M/s.

Aggarwal Packers and Movers Limited, as a Finance Manager. The said principal accused has committed defalcation of the said Company's funds to the tune of Rs.9,38,07,809/- and therefore, the present crime is registered at the instance of Shri. Rajendra Aggarwal, Vice Chairman of the said M/s. Aggarwal Packers and Movers Limited.

4 It is submitted by the learned counsel appearing for the Applicant that for acting as an agent for and on be half of Manoj Agarwal in investing his funds with other Companies, he had received a commission of Rs.61,490/- thereof. He submitted that the Applicant has no direct or indirect nexus with the crime committed by the principal accused and the Applicant has actual bonafide as an agent of the said co-accused. He therefore, prayed that, the Applicant may be protected by pre-arrest bail.

5 The record indicates that, after completion of investigation, the police have submitted charge-sheet before the Court of competent Jurisdiction. The perusal of charge-sheet would indicate that out of the amounts which alleged to have been defalcated by the principal accused Manoj Bagaria (Agarwal), a sum of Rs.2,21,00,000/- was given to the Applicant, who is the owner of the firm namely M/s. S.K. Associates and is in the business of investing funds in commodity

market. That, the Applicant invested the funds of the principal accused Manoj Agarwal in commodity market and a sum of Rs.5,00,000/- have been returned in cash to Manoj Agarwal. The record further indicates that, the said Manoj Agarwal suffered losses in trading on Multi Commodity Exchange (MCX) and the Applicant further helped the said Manoj Agrawal in recovering the said losses with the aid of some other Companies which are situated at Kolkata. Thus, it is apparent that the Applicant has played role of an Investment Agent for and on behalf of Manoj Agarwal in the present crime.

6 The custody of the Applicant is being sought on the basis of a charge levelled against him under Section 409 read with Section 34 of the Indian Penal Code. Prima facie, it is difficult to accept the contention of the prosecution that the Applicant is in anyway concerned with the said offence under Section 409 of the Indian Penal Code. The said allegations qua Manoj Agarwal is sustainable, but prima facie it creates doubt in the mind of this Court about the said allegations against the Applicant. In view of the above, the Applicant deserves to be protected by pre-arrest bail.

7 Hence, the following order-

a) In the event of arrest in C.R. No. 162 of 2014 dated 16th October, 2014, registered with Dongri Police Station, Mumbai and re-numbered C.R. No. 90 of 2014, the Applicant shall be released on bail on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.

b) The Applicant shall not tamper with the evidence and/or pressurize the prosecution witnesses.

c) Application is allowed in the aforesaid terms.

**(A.S. GADKARI, J.)**