

Santosh

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 288 OF 2017**

Aditya Dilip Bagve

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Prashant Goyal, for the Applicant.

Mr. Ameet Palkar, APP for the State/Respondent.

CORAM: A. S. GADKARI, J

DATED: 11th JULY, 2018

Santosh
Subhash
Kulkarni

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Date: 2018.07.16
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PC:-

1. By an order dated 5th May, 2017, the applicant was granted interim relief. The present application was therefore adjourned from time to time for various reasons as mentioned in the orders passed therein.

Heard the learned Counsel for the applicant and the learned APP. Perused the record of investigation.

2. The first information report is lodged by Mr. Abhishek Rai on 6th November, 2016. The prosecution case in brief is that the first informant along with Rajesh Singh were in the business of sale of mobile phones. The first informant got acquainted with the applicant through Rajesh Singh. The applicant thereafter suggested the informant to open a shop

of mobile phones, which will give greater profits. The first informant thereafter invested sum of Rs.50,00,000/- in the said business. It is the precise case of the prosecution that by taking disadvantage of the acquaintance, the applicant in the name of the firm of the first informant, accepted delivery of mobile phones from the distributors of Samsung mobile company and Vivo mobile company amounting to Rs.11,00,000/- and sold said mobiles in the market. That the applicant neither gave delivery of the said mobile phones nor paid that amount.

3. The learned Counsel for the applicant submitted that this is pure and simple civil transaction. It is submitted that the applicant, in fact, has paid amount of Rs.25,00,000/- to the first informant. It is submitted that the bank statements have already been taken into custody of the concerned investigating agency. It is submitted that there is no inducement to the first informant and therefore Section 420 of the Indian Penal Code cannot be applied to the present crime. He further submitted that the other witnesses alleged to have been duped by the applicant are put up by the first informant Abhishek Rai and their statements may not be taken into consideration while

contesting the present application. He, therefore, prayed that the applicant may be granted the pre-arrest bail.

4. The record of investigation indicates that apart from the first informant herein, there are other seven victims which have been cheated by the applicant by adopting similar *modus operandi*. During the course of investigation, it is revealed that total amount involved in the present crime is approximately Rs.2,07,00,000/- (Rs. Two crore seven lakhs only).

5. The alleged mobile phones and also the amount involved in the present crime are yet to be recovered by the investigating agency and the same is not possible without the applicant is being thoroughly interrogated by the investigating agency in that behalf.

6. After taking into consideration the aforesaid facts, serious allegations against the applicant and the gravity of the offence, this Court is of the considered view that the applicant does not deserve to be protected by pre-arrest bail.

7. The application is accordingly rejected.

[A. S. GADKARI, J.]