Nalawade

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 437 OF 2018
Amitkumar S.Singh vs. The State of Maharashtra and anr.

Office Notes, Office Memorandam of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

Mr. P.D. Prasad Rao with A.R.Pandey and R.K. Pandey for the Applicant.
Mrs. J.S. Lohokare, APP for the Respondent-State.
Mr. Prakash Wagh for the Intervener.

CORAM :A.S.GADKARI, J.
DATE : 15th June, 2018

P.C.

1. By an Order dated 9.3.2018 the applicant was granted interim relief.

2. Heard the learned counsel or the applicant and the learned APP. Perused the record of investigation.

3. The FIR is lodged by Shri. Nitish Rathi. It is the prosecution case in brief that the first informant has taken an agency of Royal Infiled Bullet Motorcycles in the year 2012. That, the applicant was working as Sales Manager of the first informant's Company. The applicant by accepting cash amount from the customers did not deposit the said amount in the treasury of the company and has defalcated approximately a sum of Rs.43,46,350/- pertaining to 34 customers of the said company. In the premise, the first information report is lodged.

4. The learned counsel for the applicant submitted that, it is stated in the first information report that the applicant has accepted cash amount from the customers of the said company which is not possible in the present scenario of our country. That, there is a delay of about one year in lodging the complaint. He submitted that the persons mentioned in the FIR have received the vehicles and therefore, there is no defalcation of the amount by the applicant. He submitted that the applicant is an innocent person and has nothing to do with the receipt of payment of the customers of the said company. He therefore, prayed that the applicant may be granted pre-arrest bail.

5. The record of investigation indicates that the police have recorded statements of certain witnesses. The witnesses in unequivocal terms have stated that they have paid the consideration of the said vehicles to the applicant in cash. The applicant thereafter issued receipts of the said company, however when the concerned persons had been to the RTO for registration of the said vehicles, it was revealed that the said receipts are not genuine and therefore, they faced difficulties in registration of the said vehicles. One of the witness has stated that, he booked a vehicle i.e. Bullet Motorcycle with the said company and had paid Rs.60,000/- in cash to the applicant and

the applicant thereafter gave receipt in the name of company under his signature to him. As he could not get delivery of the vehicle within reasonable period he approached the owner of the said company and showed the receipt issued by the said company for Rs.60,000/-. The owner of the said company and other staff after verifying it informed him that the said receipt is bogus and has not been issued by the said company. The applicant has also issued bogus tax receipts and has defalcated the hard earned money of the witnesses.

6. After perusing the record prima facie it appears that, the applicant after accepting the amount from the customers issued bogus receipts in the name of the company and subsequently defalcated the said amount as alleged. There is sufficient material available on record to show the clear complicity of the applicant in the present crime. The role played by the applicant in the present crime is apparent from the record. The police are yet to investigate from where the applicant has manufactured the said bogus receipts and who are the other persons involved in the crime. The most important factor is the recovery of the alleged defalcated amount by the applicant.

7. After taking into consideration the record of investigation, the 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.

8. Application is accordingly rejected.

(A.S.GADKARI, J.)