

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 483 OF 2018**

Jay Bharat Pahuja	...Applicant
Versus	
The State of Maharashtra	...Respondent

**WITH
CRIMINAL APPLICATION NO. 364 OF 2018
(FOR INTERVENTION)
IN
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 483 OF 2018**

M/s. Amazon Seller Services Pvt. Ltd. (through its authorized representative, Ms. Nirpreet Kaur)	...Intervener
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IN THE MATTER OF :

Jay Bharat Pahuja	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Goyal with Mr. Ateet Shirodkar for the Applicant

Mr. Sooraj S. Hulke, A.P.P for the Respondent-State

Mr. Rajinder Singh with Mr. Gautam Tiwari and Mr. Prateik Parija I/b
Probus Legal for the Intervener

PSI Mr. Ravindra V. Patil from Bhiwandi Crime Branch, Unit-2 is present

**CORAM : REVATI MOHITE DERE, J.
TUESDAY, 3rd APRIL, 2018**

P.C.

1. Heard learned Counsel for the applicant.

2. By this application, the applicant seeks pre-arrest bail in connection with C.R. No. I-65 of 2018 registered with the Narpoli Police Station, Thane, for the alleged offences punishable under Sections 406, 411 r/w 34 of the Indian Penal Code.

3. Learned counsel for the applicant vehemently submitted that the applicant is being falsely implicated in the said case. Learned counsel for the applicant submitted that the applicant had purchased only 6 mobiles and 4 laptops which were handed over by the applicant to the PSI Laxman Zaveri. He relied on certain CCTV footage photographs to show that PSI Zaveri had come to his residence on 10th February, 2018. He submitted that the applicant had purchased these 6 mobile phones and 4 laptops for his family and was not aware that the said articles were stolen property. He relied on the remand reports to show the discrepancy in the number of mobiles mentioned initially in the first remand, then in the second remand and thereafter in the third. He submitted that the number of mobiles kept on increasing in every remand. He submitted that in none of the remand applications, the applicant's complicity is seen. Learned counsel for the

applicant apprehends that if the applicant is arrested, PSI Zaveri will use third-degree methods and trouble the applicant, in view of the affidavit filed by him.

4. Learned A.P.P opposed the application. He submitted that at no point of time, the applicant had handed over the 6 phones and 4 laptops to the police, as is alleged by the applicant. He submitted that the applicant had disclosed that he had sold 4 laptops to one Baswani and that pursuant thereto, Baswani produced 4 laptops before the police. He submitted that after verifying the IMEI number, the said laptops were returned to Baswani, as the said laptops were not the ones stolen from Delivery Dot Com. He submitted that although initially the number of mobile phones were mentioned as 180 odd, subsequently, the number kept increasing after the complainant took physical stock of the articles in the godown. He submitted that the total number of the mobiles which were stolen has risen from 190 odd to 1181 as of today and the said number is likely to increase further. He submitted that two co-accused have named the applicant, as the person to whom the said mobile phones were sold, ranging from 80 to 300-400.

5. Perused the papers, in particular, the remand applications as well as the statements recorded from time to time of the complainant-Mangesh Mohite and Sachin Gurav. No doubt, initially, the number of mobiles which were alleged to have been stolen was stated to be 190 odd, but the complainant has set out, how the number has increased to 985 mobiles. He has in detail in his supplementary statement dated 17th February, 2008 given the numbers and details of all the 985 mobiles, which were stolen. Although, learned counsel for the applicant submitted that the applicant had handed over 6 mobiles and 4 laptops to Mr. Zaveri, the same is denied by learned A.P.P. The CCTV only shows that Zaveri had visited the house of the applicant on 10th March, 2018 and nothing more. According to the complainant-Mangesh Mohite, an employee of Delivery Dot Com, he was working as a Fraud Control Executive for the last two years when the alleged incident took place. He has stated that his company-Delivery Dot Com took goods from the distributors and supplied them to purchasers who had purchased the goods. He submitted that his company has branches all over Maharashtra with its main office at Prabhadevi, Mumbai. He has stated that his work was to do audit of the

godown and to inquire into the malpractices of the material, if any. He has stated that the company has its godown at Bhiwandi and that the goods were taken out for delivery by the delivery boys from the godown, to be delivered to the customers and the delivery boys were to get acknowledgment of the delivery of the said goods. He has further stated that as some of the customers did not take delivery of the goods ordered and returned them, e.g., if the address of the delivery was not located, the goods were supposed to be brought back to the godown by the delivery boys. He has further stated that the undelivered goods would then be packed into gunny bags and the gunny bags would be sealed and returned back to the concerned company i.e. the owner of the online company- Amazon. According to the complainant, the owner of the online company- Amazon informed the owner of the Delivery Dot Com Company that for the last six months, goods returned by the customers had not reached their company. He has stated that the said goods i.e. the mobile phones and laptops amounting to almost 50-60 lakhs have not been received by Amazon and hence, the Manager of the Delivery Dot Com had ordered the complainant to enquire into the matter. He has stated that in the godown of the company, he found 14 sealed bags broken and after inspecting the said

bags, found that the said bags contained 267 mobiles valued at Rs. 24,43,022/-. He has stated that the said mobile phones were given to the delivery boys to deliver it to Amazon, however, instead of delivering the said articles to Amazon, the delivery boys misappropriated the said goods, for their financial gains. Accordingly, the complainant lodged an FIR as against the five persons all working as delivery boys with Delivery Dot Com. During investigation, police arrested Umesh, Sachin, Sandip and Maqbul and recovered 57 mobiles and 3 laptops from them. On 15th February, 2018, police arrested 3 more accused i.e. Sachin @ Sacchu Ananta Patil, Altaf Naim Hussenkhan and Murgesh Virendra Dhruv. During the course of investigation, supplementary statements of the complainant and witnesses came to be recorded, wherein, it was revealed that more than 1.50 crores goods were misappropriated. The police, till date, have recovered 394 mobiles and 1 laptop worth Rs. 45 lakhs odd. It is pertinent to note that during the interrogation of co-accused Umesh, it was revealed that 80 mobiles were purchased by the applicant and in the interrogation of co-accused Saraf, it was revealed that he had sold about 300–400 mobiles of the applicant. There are statements of witnesses to show that they had purchased mobile phones from the applicant and that

one witness-Motiyani had produced 10 mobile phones worth Rs. 1,65,485/-, sold by the applicant to the police. Similarly, there are other witnesses who have purchased mobile phones from the applicant. It appears that still several more mobile phones and laptops are yet to be recovered.

6. Considering the aforesaid and the *prima facie* material *qua* the applicant, this is not a case to grant pre-arrest bail. Hence, application is rejected.

7. In view of the dismissal of the anticipatory bail application, nothing survives for consideration in Criminal Application No. 364 of 2018. The same stands disposed of accordingly.

8. It is made clear that the observations made herein are *prima facie*, for the purpose of deciding this application.

REVATI MOHITE DERE, J.