

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 949 OF 2018

Rahul Ishwar Kapoor vs. The State of Maharashtra

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Vivek Singh for the Applicant.

Mr. Amit Palkar, APP. for the State.

CORAM : A.S.GADKARI, J.

DATE : 24th July, 2018

P.C.

1. This is an application under Section 438 of the Cr.P.C. for pre-arrest bail in CR No.395 of 2017 dated 18.9.2017 under Sections 406, 420 read with 34 of the Indian Penal Code.
2. Heard the learned counsel appearing for the applicant and the learned APP. Perused the record.
3. The first information report is lodged by Shri. Tarasingh Nagpal. It is stated that, co-accused Kiran Shah was introduced with the informant by his C.A. Shri. Sanjiv Malhotra as a Chartered Accountant. Mr. Kiran Shah represented to the first informant that, the company Trinity Multitrade Pvt. Ltd. of which the applicant is the Director was in financial crisis and

therefore, the informant was requested to finance of Rs.1.00 crore to the said Company. It was further represented that, if the informant invests the said amount he will get 25% dividend on the said investment. The informant accordingly invested Rs.1.00 crore for a period of one month in the said company. An agreement was accordingly executed on the letter head of Trinity Multitrade Pvt. Ltd. and the same was signed by the applicant and co-accused Mr. Kiran Shah. It is stated that, a promissory note was also executed by those persons. It is further stated that, a flat in an under construction building which was being developed by Rushabh Real Estate & Developers Pvt. Ltd. situated at Goregaon, Mumbai was shown to have been transferred in the name of the first informant. As the accused persons did not repay the said amount as agreed, on 7.7.2016, they executed MOU and a flat bearing No.1 A-2 situated at Sonal Apartment Goregaon (E) which was in the name of Kiran Shah and his wife Sunita Shah was decided to be transferred in lieu of the said amount advanced by the informant, however co-accused Kiran Shah did not handover the said property to the informant. As the accused persons neither returned the said amount of Rs.1.00 crore along with

dividend or interest accrued thereon nor handed over the said flat situated in Sonal Apartment Goregaon (E), the informant has lodged the present crime.

4. The learned counsel for the applicant submitted that, the applicant has nothing to do with the present crime. He submitted that the applicant never met the first informant and never demanded any loan from him. He further submitted that, the alleged promissory note is a forged document. He further submitted that it was the co-accused Kirsan Shah who has transferred his property in the name of the informant and the instant transaction has no concern with the same. He therefore prayed that the applicant may be protected by pre-arrest bail.

5. Perusal of the first information report would indicate that, it is self eloquent and makes out a strong prima facie case against the applicant for offence under Section 406 and 420 of the I.P.C. There is no dispute about the fact that, the Company namely Trinity Multitrade Pvt. Ltd. has accepted the said amount of Rs.1.00 crore from the informant by executing a promissory note. The applicant is signatory to the said promissory note. The applicant along with co-accused in a systematic manner have induced the first informant for afore-

started huge amount and has subsequently defalcated it. The record of investigation indicates that, there is sufficient material on record to show the clear complicity of the applicant in the present crime.

6. After taking into consideration the aforestated facts, record of investigation, 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. Application is accordingly rejected.

(A.S.GADKARI, J.)