

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****ANTICIPATORY BAIL APPLICATION NO. 1289 OF 2018**

Babasaheb Shankar DhembereApplicant.

Vs.

The State of MaharashtraRespondent.

Mr.Vishal Patil for the Applicant.
Smt. Rutuja Ambekar, APP.for the State.
Ms. Meghna Gowalani for Respondent No.2.

CORAM : A. S. GADKARI, J.

DATE : 31st JULY, 2018.

P.C.:-

1. This is an application under Section 438 of the Cr.P.C. for pre-arrest bail in CR No.114/2017 dated 7.10.2017 registered with Badlapur Police Station, District Thane under Section 408 of the Indian Penal Code.
2. Heard the learned counsel for the applicant, the learned counsel for respondent No.2 and the learned APP. Perused the record of investigation.
3. The first information report is lodged by respondent No.2.

The prosecution case in brief is that, the applicant was working

as a salesman with the firm of the first informant. The firm of the first informant is in the business of sale of soaps. That, the applicant after sale of products and despite accepting the consideration of the sale of the said goods did not deposit nor handed over the said money to the first informant's firm namely Satyanarayan Enterprises , Badlapur. It is alleged that, the applicant has accepted a sum of Rs.6,96,036/- from various shopkeepers and without depositing the said amount with the firm of the informant has defalcated it for his own purpose.

4. The learned counsel for the applicant submitted that, prior to the lodgment of the FIR informant's firm has issued a notice dated 12.9.2017 to the applicant calling upon him to make the loss good for an amount of Rs,5,00,000/- with the aforesaid allegations. He submitted that there is increase in quantum of amount at the time of lodgment of the FIR. He therefore, prayed that benefit of the same may be given to the applicant and he may be protected by pre-arrest bail.

5. The record of investigation indicates that, the shopkeepers from whom the applicant has accepted the money of the firm, have duly corroborated the version of the first informant. Till date it is revealed in the investigation that the applicant has accepted the said amount

from the shop keepers however did not deposit the same with the first informant., Thus, it is apparent that, the applicant has committed the offence under Section 408 of the Indian Penal Code.

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

7. Application is accordingly rejected.

(A.S. GADKARI, J.)