

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1327 OF 2018**

Mr. Kiran Jagannath Shiledar Applicant

Vs.

The State of Maharashtra Respondent

Mr. Girish R. Agarwal for the Applicant.

Mr. S.R. Agarkar APP for the State.

Mr. J.S. Shelkar, API, Nashik Road Police Station.

Coram : *Smt. Sadhana S. Jadhav, J.*

Date : *11th July, 2018*

P.C.:

1 Heard the learned counsel for the applicant and the learned APP.

2 This is an application under Section 438 Code of Criminal Procedure. The applicant herein is apprehending his arrest in Crime No.574 of 2017, registered at Nashik Road Police Station, for the offences punishable under Sections 420, 468, 471 of Indian Penal Code.

3 On 22nd December 2017, Nilesh Jayantilal Chandan, who happens to be one of the partners of the Firm has lodged a report

alleging therein that the present applicant had received huge amounts from the customers. The applicant had sold flat Nos. 403 and 702 to one Prasad Admane without consulting the other partners. That his authority was revoked by a letter dated 6th May 2015. Despite that he continued to sell the flats and received the amounts.

4 On the basis of the report, Crime No.574 of 2017 registered. It is pertinent to note that the complainant has filed arbitration proceedings for settlement of account of the partnership Firm, which are pending before the High Court. There were several proceedings filed against the applicant under Section 138 of Negotiable Instruments Act. Most of the cases are compromised and they are disposed of.

5 According to the complainant, he is yet to receive Rs.19.00 Lacs from the applicant. This Court cannot be oblivious of the fact that it was a partnership firm. Arbitration proceedings are

pending and initiation of criminal proceedings cannot be treated as a recovery proceedings. In view of this, the applicant deserves pre-arrest bail.

6 However, the observations are restricted to application under Section 438 of the Code of Criminal Procedure, 1973 and shall not be taken into consideration for the purpose of quashing of FIR, discharge application or at the time of trial. Hence, the following order is passed :

ORDER

- i) The application is allowed.

- ii) In the event of arrest, the applicant be enlarged on bail on furnishing P.R. bonds in the sum of Rs.1,00,000/- with one or more solvent sureties in the like amount.

- iii) The applicant shall report to the concerned police station from 19th July 2018 to 22nd July 2018 everyday between 10.30 am. to 1.00 pm. and co-operate the investigating agency and produce all the documents.

(*Smt. Sadhana S. Jadhav, J*)