

*Nalawade*FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1530 OF 2017

Valiyaveedu Krishnankutty Sukumaran ..Applicant.

vs.

State of Maharashtra ..Respondent.

Mr. Sagar Ruparel for the applicant.

Ms. Priyanka Dubey with Ms. Radha Agarwal, Ms.Ravit Kadam
for the Intervener Respondent No.2.

Mrs.Rutuja Ambekar, APP For the State.

CORAM :A.S.GADKARI, J.

DATE : 14th February, 2018

P.C.

1. The applicant is apprehending arrest in CR No.332 of 2016 dated 17.2.2016 registered with Bandra Police Station, Mumbai under Sections 420, 467, 468, 471 read with 34 of the Indian Penal Code.

2. Heard the learned counsel for the applicant, learned counsel for the Intervener and the learned APP for the State.

3. The first information report is lodged by Mr. Vivek Agarwal the Manager of the Southern Ispat and Energy Limited. It is stated that the informant company was having business relations with VKS company owned by the present applicant. That, as the informant's company is well known in the market the applicant's company had availed Bill Factoring Facility from

Can Bank for Rs.2.00 Crores. That, due to the defective and sub standard quality of goods supplied by the applicant's company the complainant company had to suffer huge loss and therefore, since June, 2013 they stopped the business with the applicant's company namely VKS company. It is alleged that despite knowledge of discontinuation of business since June 2013, the applicant by preparing bogus seals and invoices of the complainant's company, submitted it for availing the Bill Factoring limit of Rs.2.00 Crores. to the Can Bank and the same was availed by the applicant. It is further stated that the applicant's company had given a cheque of Rs.2.00 Crore towards security deposit to the informant's company which was dishonored on presentation.

It is stated that in 2013 the informant had submitted a complaint with Bandra Police Station. That, Police Inspector Shri. Rajendra Kane had called upon the informant on two occasions by issuing a letter for lodgment of crime in the present matter. However, during the intervening period his father expired and therefore, he could not attend the police station for lodging the complaint. In the premise, the first information report is lodged.

4. Perused the record of investigation.

The record indicates that by a letter dated 10.8.2013 the Can Bank had informed the informant about the presentation of the bills raised by the applicant's company against the informant's company. The record further indicates that same was received by the informant on 27.8.2013 and in pursuance thereof the informant addressed a letter dated 13.9.2013 through his Advocate to the said Can Bank denying any liability. In this back ground the inordinate delay occurred in filing of the present FIR has not been explained by the informant. It is submitted by the learned counsel for the intervener/informant that on 1.3.2015 the father of the informant expired and because of the responsibilities of the business he could not immediately lodge the first information report. As noted earlier by a letter dated 10.8.2013 Can Bank had informed about raising of the bills by the applicant against the informant which has been duly acknowledged by the informant. The first information report itself mentions that the concerned police officer from Bandra Police Station by two letters had requested the informant to attend the police station for lodging of the FIR and in this background the inordinate delay in lodging the FIR from 27.8.2013 till 1.3.2015 and thereafter from 1.4.2015 till 1.7.2016 has not at all been explained by the first informant.

The benefit of period of one month from 1.3.2015 to 1.4.2015 at the most can be given to the informant as the mourning period.

5. Apart from the aforestated facts, the investigation of the present crime is solely based on documents which are either in possession of the first informant or have been seized by the police during the course of investigation. Therefore, in view of this Court for further investigation of the present crime the custodial interrogation of the applicant is not at all necessary.

5. In view of the above, the applicant is entitled to be protected by pre arrest bail. The interim-relief granted by order dated 31.1.2018 is hereby confirmed however, the condition to attend the Investigating Officer of the concerned police station is waived.

6. Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)