IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1654 OF 2018

Sonal Sunil Bhatia … Applicant
Vs.
The State of Maharashtra … Respondent

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Mr. Yusuf Iqbal Yusuf, Mr. Neville Majra, Mr. Shaista Pathan, Mr. Nikita Bangera I/by Y & A Legal for the applicant.
Mrs. G.P. Mulekar, APP for the Respondent-State.
Mr. Jaikumar N. Shirdhankar for the intervenor.

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CORAM : PRAKASH D. NAIK, J.
DATE : 27th AUGUST, 2018.

P.C.

1. This is an application for anticipatory bail in connection with C.R. No. 83 of 2018 registered with D.N. Nagar Police Station under Sections 406, 420 of Indian Penal Code.

2. The case of the prosecution is that in April 2017, the applicant and her husband Sunil Bhatia visited office of complainant. They represented that their customer Birla Group of Company required large quantity of cloth material and asked the complainant whether he can provide material. The complainant showed samples of cloth materials to them. Both of them placed order of cloth material after fixing rate which was valued

Rs.2,12,82,000/-. The complainant informed them that, they should collect the goods from Godown and the payment shall be made within 15 days. It was also informed that in the event of delay in payment the complainant should be given interest of 24%. The accused agreed for the said condition and issued letter dated 2nd May, 2017. The goods as ordered were kept ready alongwith Delivery Chalan / Invoices, dated 15th May, 2017, 16th May, 2017, 18th May, 2017 and 19th May, 2017. Total amount of Rs.2,12,82,000/-. On 20th May, 2017, applicant and her husband came to complainant office and handed over cheque dated 30th May, 2017 for Rs.51,24,000/-, cheque dated 31st May, 2017 for Rs.51,50,000/- and carried copies of Delivery Challan / Invoices. On 22nd May, 2017, applicant and her husband again visited complainant office collected invoices and gave two cheques dated 2nd June, 2017 for Rs.51,24,000/- and cheque dated 3rd March, 2017 for Rs.57,84,000/-. It is further alleged that on 20th May, 2017 and 22nd May, 2017 the accused had collected the cloth material from Godown Keeper and signed as copy of the challan. Thereafter applicant kept on informing the complainant that cheque may not be deposited and amount is to be received from party on 23rd August, 2017 complainant deposited the cheque which were not honoured as the applicant had instructed bank to stop payment. Inspite of collecting material amount was not paid.

3. Learned advocate for the applicant submits that applicant has been falsely implicated in this case. She has no role to play in the transaction. The husband of the applicant has left her residence with jewellery and cash on 21st November, 2017. Hence, she lodged the complaint of theft and other offences on 22nd November, 2017. The applicant was out of India from 10th May, 2017 to 18th May, 2017 and therefore the question of applicant executing the alleged document does not arise. It is further submitted that documents relied upon by the complainant are fabricated. Learned advocate placed reliance upon affidavit filed by one of the intern working with advocate alongwith whatsapp conversation which shows that the applicant alongwith intern had visited the police and inquiry has been made. The affidavit mentions that the copy of passport of applicant was pointed out to Police to show that on the relevant date the applicant was out of India i.e from 10th to 18th May, 2017 during the period which complainant had alleged that the applicant had collected goods. It is further stated that while leaving police station they heard conversation of Police Inspector with someone referring that

applicant was not in India on the date of alleged receipt of goods. It is also contended that the cheques which are subject matter of these transactions were misused by the complainant.

4. Having heard both the sides, I have gone through the documents on record. The first informant had alleged that the representation were made in 2017 and the goods worth Rs. 2,13,12,000/- were delivered to the accused. The applicant and her husband were present at the time of representation. They were also present in the godown after signing the delivery challan, goods were collected from godown keeper. The statement of the godown keeper has been recorded by the Investigating Machinery who had stated that the accused had visited the godown on 20th May, 2017 and 22nd May, 2017. It is pertinent to note that the cheque issued by the applicant were presented by the complainant which were dishonoured. The prosecution case is that the delivery challan is also signed by the applicant and her husband after accepting the delivery of the goods. The husband of the applicant is absconding. The goods are yet to be recovered. It is the contention of the applicant in the application that, cheques were missing from her cheque book and hence she gave intimation about stop payment to bank. The contention is apparently

afterthought. The applicant could not explain how complainant came into possession of cheque. The documents indicate that she has actively participated in the transaction. In the circumstances, the submissions of the applicant cannot be accepted.

5. No case is made out for grant of anticipatory bail. The application stands rejected.

Sachidanand Kuttan Nair Digitally signed by Sachidanand Kuttan Nair Date: 2018.09.05 14:55:35 +0530

(PRAKASH D. NAIK, J.)