

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 1761 OF 2016

Sudeep Narendra Rawal. ... Applicant.
Versus
The State of Maharashtra & anr. ... Respondents.

Mr. Kuldeep U. Nikam, advocate for Applicant.

Ms. S.S. Kaushik, APP for State.

CORAM : SMT.SADHANA S. JADHAV,J
DATE : JANUARY 17, 2018

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State.

2 This is an application under section 438 of the Code of Criminal Procedure, 1973. The applicant was granted interim relief vide order dated 13/10/2016. Subsequently, the complainant was added as party respondent in order to explore the possibility of amicable settlement. It appears that the complainant is not interested in

prosecuting the present application and hence, none appears for the respondent No. 2.

3 It is the case of the prosecution that the applicant and complainant were directors of Omkar Casting Private Limited. That discordant not has struck between the partners. That on 2/7/2011 the applicant herein had filed a report at Nashik Road Police Station against the complainant which was registered as C.R. No. 176/2011. In August, 2011 the applicant had filed Company Petition against the complainant i.e. Mukund Panse. That on 15/4/2013 the applicant had approached the Court of Judicial Magistrate First Class and filed complaint under section 2(d) of the Cr.P.C. which is registered as RCS No. 488 of 2013.

4 On 20/9/2013 complainant Mukund Panase approached the Court of Judicial Magistrate First Class, Nashik and filed complaint alleging misappropriation at the instance of the present applicant. That on 27/11/2013 upon perusal of the complaint, learned

Magistrate was pleased to issue directions under section 156 (3) of the Code of Criminal Procedure, 1973. Pursuant to which Crime No. 19 of 2014 was registered on 23/1/2014. The applicant herein was summoned by the police and he had appeared before the police and the statement was recorded on 27/11/2014.

5 On 1/4/2014 the applicant filed Civil Suit against the complainant for recovery of an amount of Rs. 15,37,17,000/- and also claiming damages.

6 The learned Counsel for the applicant submits that the complainant has been granted pre-arrest bail in Crime No. 176 of 2011. In the report lodged at the behest of the present applicant, it is submitted that in fact, it is a civil dispute between the partners of a company. And that the applicant has taken appropriate steps for filing civil suit. It is also submitted that the applicant has cooperated with the investigating agency and his statement was recorded by the police on 27/11/2014.

7 Upon perusal of the papers of investigation and considering the submission advanced across the bar, this Court is of the opinion that the order dated 13/10/2016 deserves to be confirmed on same terms and conditions.

8 It is made clear that the observations are restricted to the application under section 438 of the Code of Criminal Procedure, 1973 and shall not be taken into consideration for purpose of discharge application or quashing of FIR or at the time of trial.

9 Hence following order is passed.

ORDER

(i) The application is allowed.

(ii) In the event of arrest in Crime No. 19 of 2014 registered at Nashik Road Police Station, the applicant be enlarged on bail on

furnishing P.R. Bond in the sum of Rs. 50,000/- and one or more solvent sureties in the like amount.

(iii) The applicant shall report to the concerned police station as and when called and cooperate with the investigating agency to the best of his capacity.

10 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)