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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2508 OF 2017

Amit Babulal Kothari ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr.Subhash Jha a/w Mr.Siddharth Jha i/b Law Global Advocates, for the Applicant.

Mr.A.A.Palkar, A.P.P for the Respondent-State.

CORAM : REVATI MOHITE DERE, J.

DATE : 27th APRIL, 2018

<u>P.C.</u> :

1. Heard learned counsel for the parties.

2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.I-181 of 2016 registered with the Narpoli Police Station, Thane, for the alleged offences punishable under Sections 420, 504, 506(2) r/w 34 of the Indian Penal Code.

3. Perused the papers. According to the complainant-Vishal (Contractor of M/s.Swati Spentose Private Limited) his Company was in the business of manufacturing and trading raw materials used for medicines. The complainant has alleged that in September, 2015, Ms.Usha Chaurasiya (Marketing Manager) informed him that the Directors of M/s.Kothari and Company, i.e. the applicant and one Kapil Shukla (absconding) had showed their interest and willingness to purchase the raw materials from the complainant's company. It is further alleged that the applicant and Kapil had expressed their willingness to purchase the raw materials for selling it to M/s.Lyka Farma Limited, Mumbai. According to the prosecution, M/s.Kothari and Company, through Mr.Kapil Shukla ordered raw materials, pursuant to which, the said raw materials were supplied by the Complainant to M/s.Kothari and Company and money was also received by the complainant for the said transaction from M/s.Kothari and Company. According to the prosecution, M/s.Kothari and Company, again ordered raw materials, but on the second occasion, the complainant did not receive any payment. The cheques issued by the applicant were also dishonoured. When the complainant demanded money, the applicant informed the complainant that they have supplied the raw materials to

M/s.Lyka Farma Limited, Mumbai and that the said Company had delayed the payment, however, the applicant paid Rs.2 lakhs to the complainant and promised to pay the balance amount, as and when the same was received from M/s.Lyka Farma Limited, Mumbai. During the period September, 2015 to December, 2015, the applicant's Company purchased raw materials from the complainant's Company, valuing at Rs.1,31,58,132/-, however, failed to make the said payment, hence, the aforesaid complaint was lodged. It is also alleged by the prosecution, that when the complainant's employee had gone to the godown of the applicant's company, the applicant threatened the complainant's employee. It is the prosecution case that the applicant's company sold raw materials at a throw away price of Rs.68 lakhs to one Sam Impex Company i.e. co-accused – Ramlakhan Pandey and that Ramlakhan Pandey further sold the goods to Chetan Gadaya and several others. During the course of investigation, goods worth Rs.13,77,000/- were recovered from Chetan Gadaya and goods worth Rs.25,000/- were recovered from the applicant. It appears that the applicant had issued cheques for Rs.84 lakhs to the complainant, however, the cheques were dishonoured. It is informed that the applicant had cheated another person at Aurangabad and that in the said case, the applicant has been enlarged on bail. Whether the dispute alleged, discloses a criminal offence or not, is a matter which will be decided by the trial Court. The applicant is in custody for the last two years i.e. from 24th May, 2016. Investigation is complete and charge-sheet is filed.

4. Considering the aforesaid, the application is allowed and the applicant is enlarged on bail, on the following terms and conditions:-

ORDER

i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.50,000/- with one or two local solvent sureties in the like amount;

ii) The Applicant shall attend the concerned Police Station, on the first Monday of every month, between 10:00 a.m. to 12:00 noon, till the conclusion of the trial;

iii) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the trial Court as well as to the concerned Police Station, in writing;

iv) The Applicant shall not leave the country, without the permission of the trial Court;

v) The Applicant shall deposit his passport, if any, in the trial Court;

vi) The Applicant shall not tamper with the evidence or attempt to influence/contact the complainant, witnesses or any person concerned with the case;

vii) The Applicant shall co-operate in the conduct of the trial;

viii) An undertaking to the aforesaid clauses (ii) to (vii), shall be filed by the Applicant, in the trial Court, within two week's of his release;

ix) If there are 2 consecutive defaults either in attending the Police Station or in appearing before the trial Court, the prosecution will be at liberty to apply for cancellation of Applicant's bail.

5. The Application is allowed and disposed of in above terms.

6. It is made clear, that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

7. All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)