IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 624 OF 2019

Mohammad Rashid Ansari ... **Applicant**
V/s.
The State of Maharashtra ... **Respondent**

WITH
CRIMINAL APPLICATION NO. 522 OF 2019
IN
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 624 OF 2019

Naved Kamaluddin Ansari ... **Intervenor**
In the matter between :-
Mohammad Rashid Ansari ... **Applicant**
V/s.
The State of Maharashtra ... **Respondent**

Mr.Kuddus Haviulla for Applicant.
Mr.Amit Palkar, A.P.P. for Respondent-State.

CORAM : A.S. GADKARI, J.

DATE : 3rd April 2019.

P.C. :

1] This is an application under Section 438 of the Code of Criminal Procedure for pre-arrest bail in connection with C.R. No. 50 of

2019 dated 22/02/2019 registered with Agripada Police Station, Mumbai, for the offence punishable under Section 408 of the Indian Penal Code.

2] Heard the learned counsel for the applicant and the learned APP for the State. Perused the record.

3] The First Investigation Report is lodged by Mr.Naved Ansari, the owner of M/s.Unique Motors.

The prosecution case in brief is that, the applicant was known to the first informant, as he was residing in the same vicinity and therefore, the first informant employeed the applicant on a salary of Rs.18,000/- per month. It was the duty of the applicant to collect amounts from the customers of the said firm and to deposit the same in the bank. It is alleged that the applicant has collected about Rs.30,85,227/- from various customers and issued receipts to them. The motorcycles which were booked by the customers were infact delivered to them; however the afore-stated amount was found to be deficit in the account of the said firm.

It is categorically alleged that from July 2018 to November 2018, the applicant accepted Rs.4,000/- each towards sale of 115 Suzuki motorcycles and gave receipts in the name of M/s.Unique Motors. It is, therefore, alleged that the applicant being employee of the said firm has committed criminal breach of trust and has defalcated an amount of Rs.30,85,227/- for his personal wrongful gain.

4] The learned counsel for the applicant submitted that, the applicant was mere employee of the said firm. That the applicant has no direct role to play in the present crime. He further submitted that two of the motorcycles have infact are in use for the owners of the said firm. That the applicant has been falsely implicated in the present crime as a scapegoat. He, therefore, prayed that the applicant may be protected by pre-arrest bail by allowing the present application.

5] The first information report is self eloquent. On bare perusal of the first information report and other record *prima-facie* indicates that, the applicant being employee of the said firm, namely, M/s.Unique Motors has accepted various amounts from its customers towards booking/sale of motorcycles and without depositing the said amounts with the treasury of the said firm has defalcated it for his personal benefit causing wrongful loss to the informant and wrongful gain to himself.

6] *Prima-facie*, it appears that there is sufficient material available on record to show the complicity of the applicant in the present crime.

In view of the above and after taking into consideration the gravity of the offence and the serious allegations against the applicant, this Court is of the opinion that the applicant does not deserve to be protected by pre-arrest bail.

7] Application is, accordingly, rejected.

8] In view of order passed in ABA No.624 of 2019, Criminal Application No.522 of 2019 for intervention does not survive and is, accordingly, disposed off.

[A.S. GADKARI, J.]