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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2638 OF 2018

1. Sunil Shrichand Hariyani .....Applicants
2. Anil Shrichand Hariyani

V/s.

The State of Maharashtra .....Respondent

Mr. Sandesh Patil i/b Prathamesh A. Gokhale for the applicants
Mr. A. A. Palkar APP for the State

CORAM : NITIN W. SAMBRE, J.

DATE : FEBRUARY 6, 2019.

P.C.

In Crime No. 334/2018 registered with Faraskhana Police Station, Dist. Pune for offence punishable under Sections 420 r/w 34 of the Indian Penal Code, applicants are seeking pre-arrest bail.

2 The allegations against applicant no. 1 are, he is a Proprietor of M/s. Lord Electricals, who has purchased substantial electrical goods from the complainant through his brother namely Pralhad.

Since the consideration was not paid which runs into more than two and half Crores. Cheques issued were also dishonoured. As such, offence in question.

3 The learned counsel for the applicants submits that even though applicant no. 1 is proprietor of the Lord Electricals, the fact remains that entire business with complainant was looked after by main accused Pralhad and his wife Janhvi. According to him, the goods were delivered by the complainant to said Pralhad based on his face value and the goods were never delivered to Lord Electricals of which the applicant is proprietor. According to the applicant, payments realized in favour of the complainant were at the behest of the said co-accused Pralhad cousin brother of the applicant. The applicant had passed over signed blank cheques which were mis-used by co-accused Pralhad. A further contention is raised that knowing fully well Pralhad is not the owner of Lord Electricals, the complainant continued transaction and as such, necessary ingredients of section 420 r/w 34 of Indian Penal Code are not made out. The learned counsel submits that the offence is based on

commercial deal for which accounts are very much available and that being so, custodial interrogation is not warranted.

4 The learned counsel Shri. Patil would rely upon Public Caution Notice issued by the applicant warning the public at large not to enter into any commercial transaction with co-accused Pralhad having noticed that Pralhad has duped various people in the name of applicant and his Firm. He would also invite attention of this Court to a complaint lodged by the applicant against Pralhad in the police station.

5 The learned APP submits that apart from the present offence, there are two more offences registered against the applicant no. 1 in which similar type of transaction has been carried out. The learned APP then submits that the applicant is acting in connivance with the co-accused Pralhad and as on today duped various people of more than seven Crores. A further submission is made that custodial interrogation of the applicant is very much necessary having regard to his business and blood relation with co-accused Pralhad. As

such, rejection is sought.

6 What could be inferred upon going through the material available on record is, Lord Electricals is a Firm of which applicant is proprietor who has issued cheques to complainant which were dishonoured. The fact remains that in a complaint preferred to the police station at Pune, in categorical terms applicant has admitted about signing the cheques. Once it is noticed that the cheques issued in favour of complainant out of business transaction for satisfying financial liability are under the signature of the applicant, which are issued from his Firm's account, there is sufficient material to infer *prima facie* involvement of the applicant in the crime in question.

7 The attempt on the part of the applicant in issuing Public Caution Notice and a complaint to the police is by way of afterthought as it appears that the applicant is trying to cover the earlier illegalities/financial irregularities so as to draw the benefit out of the said complaint and the Public Notice.

8 Offences registered against the applicant no. 1 in other police stations also based on similar modus operandi. In view of observations recorded herein above, in my opinion, no case for bail is made out. As such, application of applicant no. 1 stands rejected.

9 So far as applicant no. 2 is concerned, but for his relation with applicant no. 1 and co-accused Pralhad there is no material on record to infer that said applicant no. 2 Anil Hariyani is involved in the crime in question. Neither any cheques are issued by Anil nor he is proprietor of the Firm with whom transaction was entered into by the complainant. That being so, following order:

> *(I) In the event of arrest in Crime No. 334/2018 registered with Faraskhana Police Station, Dist. Pune, applicant no. 2 Anil Hariyani be released on bail on furnishing P.R. bond in the sum of Rs. 50,000/- with one or more sureties in the like amount.*
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> *(II) Applicant no. 2 shall not influence witnesses or tamper with evidence.*

(III) Applicant no. 2 shall attend Investigating Officer on every Tuesday and Friday between 10.00 a.m. to 12.00 noon till 15/03/2019, in addition, as and when directed by the Investigating Officer.

10 Application stands disposed of.

[NITIN W. SAMBRE, J.]