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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 193 OF 2020

Amit Bholanath Mishra .. Applicant
vs.
The State of Maharashtra .. Respondent

Mr. Akhilesh Chubey a/w Mr. Vipul Yadav i/b Mr.Sanjeev Mishra, for applicant.
Mr. N.B. Patil, for the respondent.

CORAM : M.S.KARNIK, J.

DATE : DECEMBER 4, 2021

P.C.:-

1. The applicant claims to be a director of an infrastructure company in whose favour the cheque dated 07/03/2016 is alleged to have been issued by the complainant. According to complainant, there was over-writing on the cheque so as to change the date from 07/03/2016 to 07/08/2016. The offence is registered vide C.R. No. 571 of 2018 with Goregaon Police Station under sections 420, 465, 468, 471 of the Indian Penal Code. Hence, this application for pre-arrest bail.

2. My attention is invited to the order dated 24/11/2021

in Anticipatory Bail Application No. 156 of 2020 pertaining to one of the director of the infrastructure company – Bharat Kumar Punmaji Parmar. The relevant portion of the order reads thus :

> "3. The First Information Report (FIR) is dated 16/10/2018. It is the case of the first informant that there is an overwriting in a cheque which he had issued on 7th March, 2016 in favour of the applicant. The cheque was of an amount of Rs.15 lakhs. According to the informant, the date of issuance of cheque is 7th March, 2016 is changed to 7th August, 2016. As result of this overwriting, therefore the complaint.
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> 4. Learned counsel for the applicant submits that the applicant is a Director of infrastructure company supplying ready mix concrete to the purchasers. The informant owed an amount of Rs.85 lakhs to the applicant. The informant issued three cheques amounting to Rs.85 lakhs in the sum of Rs.35 lakhs, Rs.35 lakhs and Rs.15 lakhs each. So far as two cheques of Rs.35 lakhs are concerned, the same came to be dishonoured and hence the applicant has filed proceedings under Section 138 of the Negotiable Instruments Act before the competent Court sometime in the year 2017.
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> 5. So far as the cheque which forms the basis of the FIR in respect of which overwriting is alleged, was deposited on 12/11/2016 and the same was not honoured in view of the remark "account is closed". So far as this cheque is concerned, a notice under Section 138 of the Negotiable Instruments Act was sent by the applicant on 5/11/2016. The proceeding under Section 156(3) of the Code of Criminal Procedure is filed thereafter on 9/9/2017 by the complainant alleging overwriting.
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> 6. The cheque in question (original) is already with the investigating officer. The applicant is willing to give his handwriting sample to the investigating officer. In this view of the matter, in my opinion, the custodial interrogation of the applicant

is not required."

3. The applicant is similarly situate. The applicant herein is also a director of the infrastructure company who has been arraigned as an accused by the complainant. For the reasons mentioned in the order dated 24/11/2021 in ABA/156/2020 filed by 'Bharat Kumar Punmaji Parmar', even this application deserves to be allowed and the same is allowed on the following terms.

ORDER

i) In the event of arrest of the applicant in connection with C.R.No.571 of 2018 registered with Goregaon Police Station, Mumbai, the applicant be released on bail on his executing PR bond of Rs.25,000/- with one or more sureties in the like amount.

ii) The applicant shall co-operate with the investigation and shall report to the investigating officer as and when called.

4. The application is disposed of.

(M.S. KARNIK, J.)