

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

ANTICIPATORY BAIL APPLICATION NO. 1524 OF 2021

Sadashiv Badriprasad Tripathi Applicant

Versus

The State of Maharashtra & Anr. Respondents

Mr. R. C. Mishra a/w. Padmakar Tripathi for Applicant.
Mrs. J. S. Lohokare, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 07th JULY, 2021
(Through Video Conferencing)

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 516 of 2019 registered at L. T. Marg Police Station, Mumbai, on 29/11/2019, under section 409 r/w. 34 of the Indian Penal Code (for short 'IPC').
2. Heard Shri. Mishra, learned counsel for the applicant and Mrs. Lohokare, learned APP for the State.
3. The First Information Report (for short 'F.I.R.') is lodged by one Rajaram Upadhyay. He has stated that, he is in the

business of selling Fabric and garments. He has his office at Parel and a factory at Bhiwandi for making these garments. In 2017, the applicant contacted him. He represented to the informant that he had his own firm by the name Shree Jee Corporation at Kalbadevi road and that he was also working as Manager with his friend Rakesh Dhanuka's firm Charvi Marketting based in Jaipur, Rajasthan. The complainant started transacting business with the applicant. On 10/01/2017, the applicant placed his first order with the complainant and thereafter he placed four more orders. The garments were delivered to the applicant's office at Kalbadevi. Out of these orders, two orders were placed in the name of Charvi Marketting and third order was placed in the name of his own firm Shree Jee Corporation. The applicant had given a cheque of Rs. 2 lakhs for the initial transactions. The cheque was cleared and the informant started trusting him. After that, the applicant allegedly placed two more orders in the name of Charvi Marketing and goods were asked to be delivered to the applicant's Shree Jee Corporation's office at Kalbadevi. Accordingly, the informant sent those goods. According to the informant, he had given goods

worth Rs.26,99,345/- in all, out of which, as mentioned earlier, he got back Rs.2 lakhs, but rest of the amount was not returned. The F.I.R. mentions that the goods were delivered through two tempo vehicles. The F.I.R. also mentions that the applicant had received those goods, but had not signed delivery challans. On this basis the F.I.R. is lodged.

4. Learned counsel for the applicant submitted that the informant had approached the police station much earlier. The applicant had received a notice on 11/04/2019 calling him to the police station. According to the learned counsel for the applicant; he had attended the police station and had co-operated with the investigation. Thereafter much belatedly, in the month of November, 2019, this F.I.R. came to be lodged. He submitted that the applicant has not accepted any goods on behalf of Charvi Marketing and he had not placed any orders on behalf of Charvi Marketing, therefore, the applicant is not concerned with the alleged offence.

5. I asked learned APP about the material available against the present applicant. On instructions, she submitted that,

there are no documents in the form of purchase orders or delivery challans which are signed by the present applicant. She submitted that, the statement of driver of the vehicles was recorded. He has stated that, he had delivered those goods to one Ramakant Jaiswal at Kalbadevi. The identity of that person is not known and there is nothing to show that he is connected with the present applicant. There are no witnesses to the fact that the applicant had received those goods himself. Thus, at this stage, even after about more than 1 and half years the investigating agency does not have sufficient material against the present applicant except bare statement of the first informant. The investigation has not revealed any connection of the applicant with Charvi Marketing, based in Jaipur, in placing orders with the informant. The investigating officer who is present in the court has submitted a report before the court. The police report is taken on record and marked 'X' for identification. The I.O. fairly accepts that there are no criminal antecedents against the present applicant. In this view of the matter, custodial interrogation of the applicant is not necessary. He can be protected by an order or anticipatory bail. However, the

applicant will have to attend the concerned police station and will have to co-operate with the investigation.

6. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No. 516 of 2019 registered at L. T. Marg Police Station, Mumbai, the applicant is directed to be released on bail on his furnishing P R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The Applicant shall attend the concerned Police Station from 26/07/2021 to 28/07/2021 between 1:00 p.m. to 5:00 p.m. and shall cooperate with the investigation. In addition, the applicant shall attend the concerned police station as and when called and shall fully co-operate with the investigation.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)