

PMB

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

ANTICIPATORY BAIL APPLICATION NO.2540 OF 2019

Himmat Singh Sauda .. Applicant

vs.

The State of Maharashtra and anr. .. Respondents

Mr. Manoj Pandit for the Applicant.

Smt. Veera Shinde, APP for the State.

Mr. Chetan Akerkar for Respondent No.2.

CORAM : M.S.KARNIK, J.

DATE : AUGUST 7, 2021

P.C.

Heard learned counsel for the parties.

2. This is an application filed for pre-arrest bail in respect of C.R. No.35 of 2019 registered with Airport Police Station for the offence punishable under Section 420 of Indian Penal Code. It is the case of the prosecution that the first informant is working with one Bhukanwala Industries Private Limited, Andheri (West) as a Sales Manager. At the relevant time the applicant was working with Mayur Marbles Company, Western Express Highway. The company of the first informant was supplying cutter to the various companies and accordingly, the first informant came into contact with the applicant. They became good friends and after retirement, at the insistence of the applicant, the complainant paid the amount

of Rs.36,00,000/- to the applicant for purchase of land and start marble company in partnership. However, instead of purchasing land in the name of partners or joint name, the applicant has purchased the said land in his own name and later on, on demanding refund of said amount, he avoided payment of the said amount of Rs.36,00,000/-. The applicant relied upon the ledger accounts and bank statement as regards the transaction. It is the applicant's case that there was a transaction of money lending.

3. By the interim order dated 13.12.2019 passed by this Court, the undertaking on behalf of the applicant was recorded that he is willing to pay a sum of Rs.5 lakhs to the complainant by Demand Draft. There is no dispute that the said amount has paid. This Court recorded the receipt of this fact in the order dated 04.02.2020. Further it was recorded that according to the complainant a sum of Rs.9,49,000 is still due and payable by the applicant to the complainant besides the cash component. It was pointed out through the ledger produced, that the complainant has withdrawn Rs.2,60,000/- from his bank account by presenting/encashing five bearers cheques issued by the accused. Even according to learned counsel for the complainant, an amount of Rs.1,50,000/- besides the cash component is still due and payable by the applicant.

4. Learned counsel for the applicant submitted that if the accounts are seen and reconciled, only an amount of Rs.38,000/- is

due and payable. This is disputed by learned counsel for the complainant.

5. Considering the nature of the transaction; the interim orders passed by this Court recording the undertakings of the applicant to pay the sums mentioned therein to the complainant, which has in fact been paid; further that now the chargesheet has been filed, custodial interrogation in the facts of the present case is not necessary. It is the contention of learned counsel for the complainant that an amount of Rs.1,50,000/- apart from cash component is due and payable by the applicant to the complainant. Learned counsel for the applicant on instructions undertakes, without prejudice, to pay a sum of Rs.1,00,000/- to the complainant within a period of four weeks from today. Undertaking is accepted.

6. It is pointed out that at the time of filing of the chargesheet, the Applicant had presented himself before the trial Court.

7. The chargesheet has been filed. The Investigating Officer has stated that complainant has co-operated with the investigation. In my opinion, the present application therefore deserves to be allowed.

8. Hence, the following order :-

O R D E R

- (i) The Application is allowed.
 - (ii) In the event of arrest of the Applicant in C.R. No.35 of 2019 registered with Airport Police Station, the Applicant shall 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.
 - (iii) The interim order is confirmed.
 - (iv) The Applicant shall attend the concerned Police Station as and when called.
 - (v) It is pointed out that the Applicant has furnished the residential address and mobile phone contact numbers in terms of the interim order dated 04.02.2020, however, if there is any change in mobile number or residential address, the same shall be immediately intimated to the Investigating Officer.
 - (vi) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.
9. Anticipatory Bail Application is disposed of.

(M.S.KARNIK, J.)

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signed by
PRADNYA
MAKARAND
BHOGALE
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