

PMB

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

ANTICIPATORY BAIL APPLICATION NO.2634 OF 2019

Joseph Chakkunny Karukuttikaran .. Applicant

vs.

The State of Maharashtra and anr. .. Respondents

Ms. Meghna Gowalani I/b. Mr. Abdul Karim N. Pathan for the
Applicant.

Mr. N.B. Patil, APP for the State.

CORAM : M.S.KARNIK, J.

DATE : SEPTEMBER 29, 2021

P.C.

Heard learned counsel for the parties.

2. This is an Application for pre-arrest bail in respect of an offence punishable under Section 406 of the Indian Penal Code registered vide C.R. No.557 of 2018 with Sakinaka Police Station.

3. Counsel submits that the Applicant is a Chartered Accountant. During the period of 2011 to 2014, the Respondent No.2-complainant had hired the Applicant to look after his finance work regarding the filing of Value Added Tax ('VAT' for short) and other taxes with the taxation authority. The complainant used to send certain amount to the Applicant every three months towards the payment to the Service Tax department. It is alleged that during the period of 2011 to 2014, the complainant had paid an

amount of Rs.3 lakhs to the Applicant, who instead of depositing the said amount, siphoned of the entire amount. It is pursuant to the letter received by the complainant from the Service Tax department regarding demand of the payment of the taxes that the complainant realised about non payment of Service Tax by the Applicant, though the amount of Rs.3 lakhs was deposited with him. Repeated enquiries made by the complainant did not evince any satisfactory response from the Applicant. The complainant felt cheated and hence the FIR.

4. Pursuant to the filing of this Application, this Court passed the following order on 02.12.2019 :-

“Applicant to implead complainant as respondent no.2. Amendment to be carried out forthwith. Issue notice to added respondent. The learned APP to inform respondent no.2.

2. Applicant undertakes to pay Rs.2,79,000/- to the Complainant by way of Demand Draft within a week from today. Statement is accepted. Applicant is directed to file Undertaking to that effect.

3. In the meantime, in the event of arrest in Crime No.557 of 2018, registered with Sakinaka Police Station, he shall be released on bail on executing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount.

4. The applicant shall furnish particulars of his residence and mobile number to the Investigating Officer within a day from today.

5. Applicant shall report to the Investigating Officer as and when called.

6. Stand over to 10th December, 2019.”

5. It is stated by learned counsel for the Applicant that the order has been duly complied with and an amount of Rs.2,79,000/- has been deposited in the bank account of the complainant on 07.12.2019. Learned counsel for the Applicant submits that he was not able to annex the copy of the FIR. A copy of the FIR is tendered across the bar and the same is taken on record and marked as Exhibit 'X' for identification.

6. The Applicant has been granted interim protection since 02.12.2019. The Investigating Officer is present. It is not the contention that the Applicant has not co-operated with the investigation. Considering the facts and circumstances of the present case, in my opinion, the custodial interrogation of the Applicant is not necessary. Hence, the following order :-

ORDER

- (i) The interim order dated 02.12.2019 passed by this Court is confirmed.
 - (ii) In the event of the arrest of the Applicant in connection with C.R. No.557 of 2018 registered with Sakinaka Police Station, he shall be released on bail on executing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount.
 - (iii) The Applicant shall furnish particulars of his residence and mobile number to the Investigating Officer within a period of one week from today.
 - (iv) The Applicant shall report to the Investigating Officer as and when called.
7. The Anticipatory Bail Application is disposed of.

(M.S.KARNIK, J.)