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

ANTICIPATORY BAIL APPLICATION NO. 716 OF 2020

Prathamesh Rajendra Patole Applicant
Vs.
The State of Maharashtra and anr. Respondents

**WITH
ANTICIPATORY BAIL APPLICATION NO. 2664 OF 2019**

Ashish Dattaram Gatkhal Applicant
Vs.
The State of Maharashtra Respondent

None for the Applicant in ABA/716/2020.
Mr.Brijesh Rathod i/b Mr.V.K.Dubey Associates, for Applicant
in ABA/2664/2019.
Smt. Veera Shinde, APP for the Respondent - State.
Mr.P.B. Desai, PSI, Malvani Police Station present.
Mr.Nilesh Dabhi, for Intervener/ original complainant in both
ABAs.

CORAM : M.S.KARNIK, J.

DATE: OCTOBER 13, 2021

P.C. :

. Heard. None for the applicant in ABA/716/2020.
With the assistance of learned APP and learned Counsel for
the complainant, I perused the application and the

annexures. The Investigating Officer is present.

2. It is the allegation that the applicants are associated with each other, had promised to deliver two cars to the complainant. A sum of Rs.46,00,000/- was accepted by the applicants from the complainant, but the applicants failed to deliver the cars.

3. By order dated 28/01/2021, this Court had recorded that the applicant in ABA/2664/2019 had given an undertaking that he would pay an amount of Rs. 33,00,000/- to the complainant. The first installment of Rs. 5,00,000/- has been paid to the complainant. The balance amount was not deposited. This Court recorded the statement of learned Counsel for the applicant on instructions that the balance amount of Rs. 28,00,000/- would be paid to the complainant directly within a period of 4 weeks from 28/01/2021.

4. The amount was not paid as per the undertaking.

Thereafter on 25/02/2021, learned Counsel for the applicant in ABA/2664/2019 submitted that the balance amount of Rs.28,00,000/- in accordance with the previous undertaking would be deposited within 15 days.

5. As regards applicant in ABA/716/2020 is concerned, counsel stated that liability attributed to the said applicant is to the tune of Rs. 13,40,000/-. The applicant had undertaken to deposit a sum of Rs. 13,40,000/- in this Court within a period of one week from 28/01/2021. The applicant deposited an amount of Rs. 13,40,000/- in this Court. As the applicant has deposited the amount of Rs. 13,40,000/- which is the extent of his liability as per the understanding of the applicant, learned Counsel for the complainant, in all fairness, without prejudice to the rights and contentions of the parties regarding the quantification of the exact liability submits that he has no objection if the applicant in ABA/716/2020 is granted pre-arrest bail. In any case, the applicant in ABA/716/2020 is granted interim protection since 18/01/2021. As the applicant has

deposited amount of Rs. 13,40,000/- in compliance with the order passed by this Court, looking at the nature of the allegations, the custodial interrogation of the applicant is not necessary and hence, it is directed that in the event of arrest of the applicant in ABA/716/2020 in connection with the CR No. 198 of 2019 registered with Malwani Police Station, he shall be released on bail on furnishing PR bond in the sum of Rs. 50,000/- with one or more sureties in the like amount. ABA/716/2020 is allowed in the above terms. The applicant to co-operate with the investigation and attend the police station as and when called. The amount of Rs.13,40,000/- deposited in this Court be transferred to the concerned trial Court. This deposit shall abide by the orders passed by the trial Court. It is open for the applicant to apply for withdrawal of the amount which shall be considered on its own merits and in accordance with law.

6. So far as the applicant in ABA/2664/2019 is concerned, after having secured interim protection on the basis of solemn undertaking given to this Court, the

applicant has failed to abide by the undertaking and enjoyed the interim protection since 05/12/2019. Learned APP pointed out that there are as many as 8 criminal cases registered against him. When this Court expressed the inclination to reject the ABA of Ashish Dattaram Gatkhal (ABA/2664/2019), learned Counsel for the applicant sought leave to withdraw the application. Hence, Anticipatory Bail Application No. 2664 of 2019 is allowed to be withdrawn and the same is dismissed as withdrawn. It is made clear that it is open for the learned APP or learned Counsel for the complainant to take such steps in accordance with law for the breach of undertaking. The amount of Rs.5,00,000/- which is deposited in this Court be transferred to the concerned trial Court.

7. Both Anticipatory Bail Applications are disposed of in the above terms.

(M.S.KARNIK, J.)