

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

ANTICIPATORY BAIL APPLICATION NO. 329 OF 2021
WITH
INTERIM APPLICATION NO. 540 OF 2021

Imran Iqbal Khan ..Applicant

v/s.

The State of Maharashtra . ..Respondent

Mr. Prakash Shetty a/w. Javed Hussein i/b. Sarthak Shetty for the Applicant.

Mrs. S.S.Kaushik, APP for the State.

Mr. Sharian Mukherji for the Intervenor in IA/540/2021

Mr. P.T.Nawadkar, P.I. from MRA Marg. P. Stn. present.

**CORAM : ANUJA PRABHUDESSAI,J.
DATED : 29th MARCH, 2022.**

P.C.

1. This is an application under Section 438 Cr.P.C. filed by the aforesaid Applicant seeking pre-arrest bail in C.R.No. 191 of 2020 registered with M.R.A.Marg Police Station, Mumbai for offences under Section 409, 420 of IPC.

2. Heard Mr. Shetty, learned Counsel for the Applicant, Mrs. Kaushik, learned APP for the State and Mr. Mukherjee for the Intervenor. I have perused the records and considered the submissions advanced by the learned Counsel for the respective parties .

3. The aforesaid crime was registered pursuant to the FIR lodged by the Intervenor-Complainant- Mr.Parmanand Patel. The grievance of the

Intervenor-Complainant is that since 2016, the Applicant has entered into several transactions with them and gained his confidence. The Complainant claims that in the year 2017, the Applicant had asked for money to buy steel from Sanjar Steel Private Ltd. Accordingly, the money was transferred in the account of the Applicant. It is stated that the Applicant mis-appropriated an amount of Rs.1,04,04,102/- and thus caused wrongful gain to himself and wrongful loss to the Complainant.

4. At the outset, it may be mentioned that the complaint lodged by the Intervenor on 16.10.2019 on the same facts was investigated and the Investigating Officer had opined that it is a civil dispute and had instructed the Complainant to approach the Civil Court.

5. Subsequently, on 14.01.2020 the Complainant addressed another letter to the Addl. Commissioner of Police, Zone 2, stating that he is not agreeable to the opinion given by the Assistant Police Inspector and requested to re-examine the case. Pursuant to the said letter, statement of the Complainant was recorded on 08.02.2020. It is seen that no crime was registered even on the basis of the said statement. The Complainant gave a third statement on 07.08.2020, on the same set of facts, based on which the aforesaid crime has been registered. It would not be appropriate at this stage to make any observations about the investigation or the manner in which the matter has been investigated. Nevertheless, it is relevant to note that the FIR which is lodged in the

year 2021 pertains to the transaction of 2017. There is considerable delay in lodging the FIR. The records further indicate that by order 10.03.2021, this Court (Coram : Prakash Naik, J.) had granted interim bail to the Applicant with direction to appear before the Investigating Officer and co-operate with investigation. It is stated that the Applicant has reported to the Investigating Officer.

6. On being question, learned APP, under instructions from the Investigating Officer who is present in the Court, states that the Applicant, though reported on the given dates, was not interrogated by the Investigating Officer. No explanation is forthcoming for not interrogating the Applicant even though he had attended the police station and had reported to the Investigating Officer. This itself is sufficient to hold that custodial interrogation of the Applicant is not required for the purpose of investigation and /or for filing chargesheet.

7. In the circumstances, the Application is allowed on the following terms and conditions:-

- (i) In the event of arrest of the Applicant in C.R.No. 191 of 2020 registered with M.R.A.Marg Police Station, the Applicant be released on bail on furnishing bail bond of Rs.50,000/- (Rupees Fifty Thousand Only) with one or two solvent sureties in the like amount, to the satisfaction of the Investigation Officer.
- (ii) The Applicant shall report to the Investigating Officer for four

days from 04.04.2022, and as and when required by the Investigating Officer for the purpose of investigation and interrogation.

(iii) The Applicant shall provide his permanent as well as temporary address, if any, and his contact details to the Investigating Officer.

(iv) The Applicant shall not change his residential address without prior intimation to the Investigation Officer.

(v) The Applicant shall not interfere with the complainant and the other witnesses in any manner.

. Interim Application No.540 of 2021 stands disposed of in view of disposal of Anticipatory Bail Application.

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(ANUJA PRABHUDESSAI, J.)