IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1052 OF 2022

Rajesh Shamji Rathod ...Applicant
Versus
The State of Maharashtra ...Respondent

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Mr. Dwivendra Dubey with Mr. Rajesh Patil, Tushar Bansode and Alka Pandey i/b. M/s. Law Global for the Applicant.
Mrs. S.S. Kaushik, APP for Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 28th APRIL, 2022.

P.C.:-

1. This is an application under Section 438 of Cr.P.C. for pre-arrest bail in C.R. No.23 of 2022 registered with Dadar Police Station, Mumbai, for offences punishable under Sections 420, 465, 467, 468 and 471 of the IPC.

2. Heard Mr. Dubey, learned counsel for the Applicant and Ms S.S. Kaushik, learned APP for Respondent-State. 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 Mr. Vilas Kocharekar. The FIR prima facie reveals that the Complainant was in need of loan of Rs.50,00,000/-. The Complainant claims that the Applicant assured loan on payment of Rs.1,00,000/-. Accordingly, in the month of April-2021 the Complainant paid Rs.1,00,000/- to the Applicant and subsequently he paid Rs.3,00,000/-. Thus, the Complainant paid total amount of Rs.4,00,000/-to the Applicant. The Complainant has further stated that on 16/05/2021 he met with an accident and the Applicant came to his residence and took blank cheque with an assurance that the same was needed for insurance claim. The Complainant has stated that subsequently the Applicant filled in the contents of the cheque and deposited the cheque for Rs.14,00,000/- by forging his signature. The Complainant has also alleged that the Applicant has forged his signature and fabricated the promissory note.

4. It is pertinent to note that apart from the oral statement of the Complainant, there is no material in the form of bank entries or other corroborative material to prima facie prove payment of Rs.4,00,000/-. The records further reveal that much prior to lodging of the FIR the Applicant had lodged a complaint against the Complainant and had also filed an application under Section 156(3) of Cr.P.C. before the learned Metropolitan Magistrate, Bandra, (Cri. Application No. 7004902 of 2021)

alleging that he had given to the Complainant amount of Rs.18,00,000/- for his personal needs and that the Complainant had failed to repay the same and further threatened him. The Applicant has also placed on record copy of income tax returns, which prima facie reveals that an amount of Rs.18,00,000/- was given to the Complainant by way of loan / advance. The Applicant had also addressed a legal notice dated 04/09/2021 calling upon the Complainant to pay the cheque amount. It is stated that the said notice was returned with an endorsement "unclaimed".

5. In the facts and circumstances, in my considered view the allegations and counter allegations need to be adjudicated on the merits of the matter. Even otherwise the case is based mainly on documents and the same can be investigated without custodial interrogation. No case is made out for custodial interrogation.

6. Under the circumstances and in view of discussion supra, the application is allowed on the following terms and conditions:-

(i) In the event of arrest of the Applicant in C.R. No.23 of 2022 registered with Dadar Police Station, Mumbai, he is ordered to be released on bail on executing PR bonds in the sum of Rs.25,000/- with one or two sureties to the like amount.

(ii) The Applicant shall co-operate with the investigation and shall appear before the concerned investigating officer on 02/05/2022 and 03/05/2022 between 11.00 a.m. to 2.00 p.m. and thereafter as and when required by the investigating officer.

(iii) The Applicant shall keep the Investigating Officer informed of his current address and mobile contact numbers, and/or change of residence or mobile details, if any, from time to time.

7. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)

MEGHA S PARAB Digitally signed by MEGHA S PARAB Date: 2022.04.30 14:36:56 +0530