IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1266 OF 2018

Kirk Peter Francis ...Applicant

Versus

The State of Maharashtra and Anr. ...Respondents

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Mr. Mubin Solkar with Aamir Sopariwal i/b. Ms Zara Salati for the Applicant.
Ms S.S. Kaushik, APP for Respondent No.1-State.
Ms Kamana Kapoor for Respondent No.2.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 5th APRIL, 2022.

P.C.:-

1. This is an application under Section 438 of the Cr.P.C filed by the aforesaid Applicant apprehending his arrest in MECR No.1 of 2017 registered at D.N. Nagar Police Station, Mumbai pursuant to the order passed by the learned Magistrate, Andheri under Section 156(3) of Cr.P.C.

2. Heard Mr. Mubin Solkar, learned counsel for the Applicant, Ms S.S. Kaushik, learned APP for Respondent No.1-State and Ms Kamana Kapoor for Respondent No.2. Perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The Complainant claims that he was introduced to the Applicant, who is Director of Maska Pav Pvt. Ltd. (MPPL) engaged in the business of film and advertisement production, through a common friend in April-2014. The Complainant was interested in venturing in film and advertising industry in Mumbai and he informed the Applicant that he was ready to invest in the production assignment undertaken by the Applicant's company and offered to do business in partnership with the Applicant. The Complainant has stated that the Applicant accepted his proposal on a condition that the Complainant would invest in production assignment of MPPL. The Complainant alleges that accordingly he started investing money since 2013. Initially he made financial gains through the said investment. The Complainant alleges that in April and June-2014 he had given to the Complainant, cheque for Rs.2,00,000/- each and in the month of July 2014 he had given Rs.50,00,000/- after mortgaging his house. He had also given to the Applicant Rs.8,00,000/- through a friend in Delhi. The Applicant has not repaid the said money and the cheques for Rs.1.48 crores issues by the Applicant were dishonoured. The Complainant therefore alleges that the Applicant has cheated him.

4. It is to be noted that the alleged transaction is of the year

2014. The Complaint was filed in the year 2016. Furthermore the Applicant No.1 has also filed a complaint against the Complainant alleging that though he was appointed as an authroised signatory of MPPL, he has misappropriated the amount of the Company. The Applicant was granted interim bail on 20/06/2018, which was extended till March-2020. The Applicant has reported to the Investigating Officer and has been duly interrogated. No attempts were made to apprehend the Applicant after March-2020 even though the interim protection was not extended. Though the crime was registered in the year 2016, till date charge sheet is not filed. Learned APP under instructions from the Investigating Officer states that charge sheet has not been filed since there were talks of settlement.

5. Considering the above facts as well as considering the nature of accusations this is a fit case for pre-arrest bail.

6. Hence, the application is allowed on the following terms and conditions:-

(i) In the event of arrest of the Applicant in MECR No.1 of 2017 registered at D.N. Nagar Police Station, Mumbai, the Applicant shall be released on bail on executing

PR bonds in the sum of Rs.30,000/- with one or two sureties to the like amount;

(ii) The Applicant shall appear before the Investigating Officer if required by the Investigating Officer.

(iii) The Applicant shall keep the Investigating Officer informed of his current address and mobile contact number 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: 2022.04.07 18:56:26 +0530