

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

ANTICIPATORY BAIL APPLICATION NO.2084 OF 2021

Kalaiyarasan Palanisamy

..... Applicant.

V/s

State of Maharashtra

..... Respondent

Mr. Sudip Mallick i/b Harshad E. Palve for the Applicant.

Ms. Pallavi N. Dabholkar, APP for the Respondent-State.

Mr. V. D. Gopal, PSI, Killa Police Station, present.

CORAM : NITIN W. SAMBRE, J.

DATED : 19th September, 2022

P.C.:

1. Heard.
2. The applicant is seeking pre-arrest bail in crime no. 461 of 2020 registered with Killa police station for the offence punishable under sections 420, 406 r/w. 34 of IPC.
3. The prosecution case against the applicant is, he being a middle man in the matter of securing the power loom machine defrauded the complainant by not delivering the power loom machine though consideration was paid/accepted.
4. The submissions of the counsel for the applicant are, the applicant's involvement in the offence in question can be inferred only to the extent of Rs.6,00,000/-, which he is willing to deposit in

this Court. So as to substantiate his contentions, he has drawn support from the order passed by this Court on 05/02/2021 in ABA/81/2021 Zahid Ahmed Khurshid Ahmed vs State of Maharashtra.

5. As such, by drawing support from the contents in the FIR and the aforesaid order, he would urge that the custodial interrogation of the applicant is not required.

6. Learned APP would oppose the prayer based on the investigation papers.

7. I have appreciated the said submissions.

8. The other two co-accused who were arrested has specifically mentioned as to the receipt of the substantial amount involved in the crime by the applicant, who ran away with the cash which was received by him from the complainant.

9. Though the statements of the co-accused cannot be considered in the form of evidence against the applicant, the same can be relied on for the purpose of the investigation.

10. Merely because the co-accused-Zahid in his bail application has stated before this Court that the present applicant has accepted an amount of Rs.6,00,000/- by itself will not absolve the applicant of his financial liability. The offence is alleged to have been committed is punishable under sections 406 and 420. The

entire conduct of the applicant depicts is at of inducement with *Mense Rea*. The applicant has trapped the complainant in the contract with criminal intention of committing an offence.

11. The fact that the applicant has accepted money can be inferred from the investigation so also the failure to deliver the power loom machine.

12. That being so, not only necessary ingredients but prima facie involvement of the applicant can be inferred.

13. The applicant was given a chance by this Court to deposit an amount involved in the crime which he has received. Learned Counsel for the applicant has informed that the applicant has no intentions to deposit the said amount.

14. That being so, no case for anticipatory bail is made out. The application stands rejected.

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(NITIN W. SAMBRE, J.)