

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

**ANTICIPATORY BAIL APPLICATION NO.2723 OF 2021
WITH
INTERIM APPLICATION NO.2905 OF 2021
IN
ANTICIPATORY BAIL APPLICATION NO.2723 OF 2021**

Suresh Kishanchand Bharati

...Applicant

Versus

The State of Maharashtra

...Respondent

....

Mr. Abad Ponda senior counsel with Mr. Satyam H. Nimbalkar with Mr. Karma Vivan for the Applicant.

Ms A.A. Takalkar, APP for Respondent -State.

Mr. Manoj Mohite, senior counsel i/b. Mr. Shantanu Phanse for the Intervenor-Complainant.

Mr. Sachin D. Dabhade, PSI, Bhiwandi police station, present.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 5th APRIL, 2022.

P.C.:-

1. This is an application under Section 438 of the Cr.PC. filed by the Applicant apprehending his arrest in C.R. No.383 of 2021 registered with Bhiwandi Taluka Police Station, District-Thane, for offences punishable under Sections 467, 468 and 471 of the IPC.

2. Heard Mr. Abad Ponda, learned senior counsel for the Applicant, Ms A.A. Takalkar, APP for Respondent-State and Mr. Manoj

Mohite, learned senior counsel for the Complainant-Intervenor. Perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. Aforesaid crime was registered pursuant to the FIR lodged by Mr. Mahesh Ahuja, one of the Directors of Ahuja SYN FAB Pvt. Ltd. and Bhavisha Project Pvt. Ltd. It is the case of the Complainant that the Applicant herein has obtained GST certificate in the name of Bhavisha Fashion Trendz on the basis of forged lease agreement dated 10/02/2021. The Complainant has stated that the said agreement was neither signed by him nor by the witnesses, who are his employees. On the basis of the FIR lodged by the Complainant, aforesaid crime came to be registered.

4. The records indicate that the Applicant is also one of the Directors in M/s. Ahuja SYN FAB Pvt. Ltd. and Bhavisha Project Pvt. Ltd. The Applicant had also lodged a complaint against the Complainant for cheating, criminal breach of trust, forgery and criminal intimidation. Prima facie there appears to be some dispute between the Applicant and the Complainant. The Applicant is on interim bail since 03/11/2021. He has appeared before the Investigating Officer and has been interrogated. The prosecution seeks custodial interrogation of the Applicant only for

recovery of original agreement. The Applicant has denied that he is in possession of the original agreement and has stated that the said document is with the first informant. Under such circumstances, bail cannot be declined solely on such ground, particularly when the investigating agency has not been able to recover the same despite interrogation. Even otherwise the agreement is notarised and is attested by witnesses. The question whether the agreement is forged, authentic or genuine will have to be decided on merits of the matter. In view of above, this is not a case which would warrant custodial interrogation.

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

(i) In the event of arrest of the Applicant in C.R. No.383 of 2021 registered with Bhiwandi Taluka Police Station, District-Thane, the Applicant shall be released on bail on furnishing PR bonds in the sum of Rs.30,000/- with one or two sureties to the like amount.

(ii) The Applicant shall report to the Investigating Officer as and when 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.

6. The application stands disposed of.

7. In view of disposal of the anticipatory bail application, the interim application does not survive and hence stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)