

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 2756 OF 2022

Prateet Shah	...Applicant
Versus	
State Of Maharashtra	...Respondent

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Mr. Gaurav Chaubey i/by Kavitha Prakash, Advocate for the Applicant.

Mr. A. A. Palkar, APP for the Respondent – State.

CORAM	:	PRAKASH D. NAIK, J.
DATE	:	6th OCTOBER, 2022.

PER COURT:

1. This is an application for pre-arrest bail in C.R. No.124 of 2022 registered with Shivaji Nagar Police Station for an offences under Sections 420 r/w 34 of Indian Penal Code.

2. The complainant is selling mobile phones. The applicant and his sister frequently visit his shop for purchasing cell phones or repairing them. The applicant purchased two cell phones from the informant on 26th May, 2022 worth Rs.1,50,000/- each. He issued cheque of Rs.3,00,000/- towards price of phones. Cheque was dishonoured. The applicant gave another cheque dated 15th June, 2022. It was dishonoured. The complainant gave call on sold cell phones. The receiver of call informed that cell phone is purchased from shop at Mumbai. Thus the accused sold cell phones to third party.

3. The applicant had preferred an application for anticipatory bail before the Court of Sessions Court which has been rejected by order dated 19th September, 2021.

4. Learned Advocate for the applicant submitted that, the only offence registered against applicant is under Section 420 of Indian Penal Code. The case related to dishonour of cheque and at the most the complainant could have filed under the Negotiable Instruments Act. The learned Sessions Judge has rejected the application erroneously on the ground that the investigation would hamper. Custodial interrogation is not necessary. This is not a case for subjecting the applicant to custody. Once the cell phone was sold to the applicant, he was at liberty to sell it to any other person. The offence under Section 420 Indian Penal Code is not made out.

6. Learned APP submitted that after purchasing the cell phone the same were sold to the other person. The applicant is involved in fabrication of bill and therefore, the Section 465 and 468 were added. Statements of witnesses were recorded during the course of investigation.

7. On perusal of the FIR, the order passed by the Court below and investigation papers, it is apparent that *prima facie* case is made out against the applicant. The custodial interrogation of the

applicant is necessary.

8. Hence, application stands rejected.

(PRAKASH D. NAIK, J.)