

GRM

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

ANTICIPATORY BAIL APPLICATION NO. 3118 OF 2022

RANJAN KUMAR ..APPLICANT

VS.

THE STATE OF MAHARASHTRA ..RESPONDENT

Mr. Kushal Mor a/w Mr. Kunal Bilaney & Mr. Marmik Shah,
Adv. for the applicant.

Mr. Vinod S. Chate a/w Ms. Prerna Sharma & Mrs. Kalpana V.
Chate i/by Chate & Associates, Adv. for the original
complainant.

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

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 7, 2022.

P.C. :

1. Heard learned Counsel for the applicant, learned Counsel for the intervenor-complainant and learned APP for the State.

2. The complaint is filed at the instance of one Mr. Satish Dashrath Jade vide C.R. No. 228 of 2022 for the offence punishable under Sections 406 & 420 read with 34 of the Indian Penal Code, 1860 registered with Kapurbawdi Police Station, District-Thane.

3. It is the case of prosecution that the applicant wanted

the complainant to supply LED street lights. The Memorandum of Understanding (“MOU” for short) was entered into between the parties, whereby it was agreed by the complainant that 10,000 LED street lights will be supplied to the applicant for the consideration of Rs. 1 crore. This transaction took place sometime in the year 2019. The MOU was entered into on 13th March, 2019. The payment terms were fixed. The applicant paid a sum of Rs. 50 lakhs towards the purchase order and thereafter, a further sum of Rs. 10 lakhs to the complainant. That the payment of Rs. 60 lakhs was made is not disputed. According to the complainant, the applicant avoided payment of the balance consideration. It is submitted by the learned Counsel for the complainant that the applicant started giving false promises to the complainant and even on one occasion, a cheque was issued by the applicant, which was dishonoured. The applicant was assuring the complainant time and again that the outstanding dues will be paid. The complainant realized that the applicant had no intention of repaying the outstanding dues and right from the inception, the intention of the applicant was to cheat the complainant.

4. The learned Counsel for the applicant submitted that plain and simple, this is a dispute of civil nature. The prosecution has been initiated for recovery of money. It is submitted that the supply made by the complainant of LED street lights was faulty and objections were raised by the Andhra Pradesh Government, which had the effect of stalling the payments, to be received by the complainant. The applicant is willing to pay the amount provided the faulty LED street lights are replaced.

5. It appears that the transaction is of the year 2019, when the LED street lights were supplied. Admittedly, the payment of Rs. 60 lakhs has been made for a purchase order of Rs. 1 crore. It is the applicant's case that the Andhra Pradesh Government has raised objections regarding the faulty LED street lights, which compelled the applicant to request the complainant to replace such faulty LED street lights. The MOU entered into between the parties contains a clause for referring the dispute to arbitration. In my opinion, the dispute arises out of a commercial transaction and it is of a civil nature. It could not be said that since inception there is an intention on the part of applicant to cheat the

complainant as substantial payment has been made. Even now the applicant is willing to make the payment, provided the complainant replaces the faulty LED street lights.

6. Suffice it to observe that considering the nature of dispute, the same appears to be purely of a civil nature and hence, a case is made out by the applicant for grant of pre-arrest bail.

7. Without prejudice to the rights of complainant, to show the bonafides, the learned Counsel for the applicant submitted that the applicant is willing to pay the sum of Rs. 5 lakhs to the complainant within a period of 2 (two) weeks from today.

8. The statement is accepted. In the result, the following order is passed :-

ORDER

1. Anticipatory Bail Application No. 3118 of 2022 is allowed on the following terms :-

a. In the event of arrest of the applicant Ranjan Kumar in connection with C.R. No. 228 of 2022 registered with Kapurbawdi Police Station, District-Thane, he be released on bail on furnishing P.R. Bond

in the sum of Rs. 25,000/- (Rupees Twenty-five Thousand Only) with one or more sureties in the like amount.

b. The applicant shall report to the investigating officer on 14th & 15th December, 2022 between 11.00 a.m. & 1.00 p.m. and thereafter as and when called.

2. The applicant to abide by all the above conditions without fail.

3. Anticipatory Bail Application No. 3118 of 2022 stands disposed of accordingly.

(M. S. KARNIK, J.)