

PMB

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

ANTICIPATORY BAIL APPLICATION NO.3342 OF 2022

GOVINDSAI MADHAVRAO KULKARNI ..APPLICANT
VS.
THE STATE OF MAHARASHTRA AND ANR. ..RESPONDENTS

Mr. A. P. Mundargi, Senior Advocate a/w Mr. Jayant
Bardeskar and Mr. Abhishek Kulkarni for applicant.
Ms. P. N. Dabholkar, APP for State.
Mr. Gopal Bhagat for intervenor.
Mr. Yogesh Avhad, PI, Kasarvadvali Police Station, Thane.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 1, 2022.

P.C. :

1. Heard learned counsel for the applicant, learned APP and learned counsel for the intervenor.
2. The counsel for the original complainant had appeared and made his oral submissions opposing the application on the basis of the materials on record. The offence is punishable under Sections 420 and 406 of the Indian Penal Code, 1860 in connection with C.R. No.0354 of 2022 dated 21/10/2022 registered with Kasarvadvali Police Station, Thane, at the instance of the complainant. It appears that

the informant and the applicant entered into an agreement under which the applicant assured the informant that he would supply certain medicine powder at a concessional rate. The accused was paid Rs.3,30,92,000/-. There is some dispute as to whether a part of amount of Rs.25,00,000/- has been returned by the applicant to the complainant. Nonetheless, learned Senior Advocate, on instructions, submits that having regard to the materials on record, admittedly an amount around Rs.3,00,00,000/- has to be paid to the complainant. Learned Senior Advocate submitted that the proceedings for quashing have been filed and in fact the applicant has never shied away from his liability to pay the said amount. He only requested that a reasonable time be granted during which period he would pay the amount.

3. Learned APP as well as learned counsel for the complainant opposed the present application for pre-arrest bail. Learned APP submits that a notice under Section 41A of the Code of Criminal Procedure (hereafter 'the Cr. P. C.', for short) was issued to the applicant pursuant to the FIR

which is registered against the applicant. The applicant however failed to report to the Investigating Officer. Learned APP vehemently opposed the application and so did the learned counsel for the complainant. The learned counsel for the complainant submitted that he is interested in his money which the applicant is refusing to pay.

4. Since the notice under Section 41A has been issued and having regard to the submissions of learned APP that the applicant is willing to pay the sum of around Rs.3,00,00,000/-, it would be appropriate if the applicant reports to the Investigating Officer and co-operates with the investigation. Should the parties settle the matter, they may proceed accordingly. Since the notice under Section 41A has been issued and now that the learned Senior Advocate submits that the applicant will co-operate with the Investigating Officer, let the applicant report to the Investigating Officer on 5th and 6th December, 2022 between 11.00 a.m. and 1.00 p.m. and thereafter, as and when called. In case the Investigating Officer wants to effect arrest if he feels that arrest is imperative in the wake of the

reasons recorded by him, he may effect the arrest after giving 72 hours notice in advance to the applicant. The applicant to furnish the details of their residential addresses and contact numbers to the Investigating Officer.

5. The application is disposed of.

(M. S. KARNIK, J.)