IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.719 OF 2023

SUDHAKAR SULKUDE S/O. SHIVRAM SULKUDE
VERSUS
THE STATE OF MAHARASHTRA

Mrs. Karishma Sarin, Advocate for the applicant
Mr. S. N. Morampalle, APP for the respondent/State

CORAM : R. M. JOSHI, J.
DATE : 14th JUNE, 2023

P.C. :-

1. The applicant apprehends arrest in connection with CR No. 454/2022 registered with Chandanzira Police Station, District Jalna for the offences punishable under Sections 406, 420, 504 read with Section 34 of the Indian Penal Code.

2. Informant is a clerk working with Kalika Steel Alloys Private Limited situated at Jalna. There is a contention of the informant in the first information report that since 2021 there are transactions between informant and present applicant. It is further categorically stated that as and when there is requirement of the applicant, the applicant used to purchase steel bars from the informant-company and as per assurance given to board of directors the payment of the said steel used to be paid towards the said transaction. Because of these transactions, applicant has gained trust of the company. It is further alleged that as usual on

28/05/2022 at about 03.00 pm applicant came to be informant's company and purchased the steel of Rs.16,81,853/-. It is stated that balance amount was due from him to the tune of Rs.1,92,11,021/-. Thus, the total amount of Rs.2,08,92,874/- was due from the applicant and he had assured to pay the same immediately to the informant. Thereafter when the informant approached to the applicant for the payment of the said amount, applicant not only refused to pay the amount but also threatened the informant. There are other averments in concerning with present applicant in the said first information report.

3. Learned counsel for the applicant states that there were regular transactions of purchase of the steel from the informant-company and that the applicant has maintained the ledger account of the said company. He claims that in fact some amounts are due to the applicant from the informant. It is submitted that this is a commercial transaction and hence no offence is made out against the applicant.

4. Learned APP opposed the said submissions by pointing out that the applicant has gained confidence of the informant and thereafter purchased the goods and in spite of assurance the amount is not paid towards the same. Thus, according to it is a case of breach of trust.

5. Perusal of the report it shows that since year 2021 there

were transaction between applicant and informant-company. It is not stated in the FIR as to the period of credit, however, it can be seen that since year 2021 the goods are sold on credit. When a specific question was the query was raised to the learned APP to point out as to the period for which credit was allowed from record he states that there is no such agreement nor even orally such period was fixed. The FIR itself clearly indicates that it is commercial transaction between applicant and informant-company. In absence of any evidence on record to indicate the period in which the amount was to be repaid by the applicant to the informant, it is difficult to accept that any assurance was given for the said payment and the said assurance is breached. It is always open for any party to recover the amount due from the commercial transaction by approaching to the appropriate Court of law. The commercial transaction cannot be permitted be converted in to the criminal case for the purpose of instant recovery of the amounts due.

6. Having regard to the aforesaid facts it is a fit case to grant anticipatory bail to the applicant. Hence application stands allowed on the same condition by order dated 4th May, 2023.

(R. M. JOSHI, J.)

ssp