

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

ANTICIPATORY BAIL APPLICATION NO. 764 OF 2023

Rahul Sengupta

..Applicant

v/s.

The State of Maharashtra .

..Respondent

Mr. Rutvij Solanki a/w. Megha Keluskar for the Applicant.

Mr. Shrikant Yadav, APP for the State.

Mr. V.R.Shingade, P.I. from Kanjurmarg Police Stn.

CORAM : ANUJA PRABHUDESSAI ,J.

DATED : 28th MARCH, 2023.

P.C.

1. This is an application under Section 438 Cr.P.C. filed by the aforesaid Applicant apprehending his arrest by Kanjurmarg Police, in connection with the complaint filed by one Mr. Dominic Silvera, Administrative Officer of M/s. Hafele India Pvt. Ltd.

2. Heard learned Counsel for the Applicant, learned APP for the State. I have perused the records and considered the submissions advanced by the learned Counsel for the respective parties .

3. The Applicant had received a notice dated 5th January, 2023 from Kanjur Marg Police Station, informing him about the complaint lodged by the Administrative Officer of M/s. Hafele India Pvt. Ltd., and he was

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requested to remain present for the purpose of inquiry. The Applicant was informed that no FIR was registered. However, the Applicant apprehended that he would be arrested in connection with the said complaint. Hence he filed an application for pre-arrest bail before the Sessions Court, which came to be dismissed on 8th March, 2023. The learned Sessions Judge observed that the Applicant was in employment of the Company for more than seven years, and that the company had provided to him a credit card of HDFC Bank for meeting job related expenses. The learned Judge observed that the allegations were that the Applicant had unauthorizedly used the said Credit Card for the purposes unconnected with his services, more so for his personal expenses, and has thus misappropriated an amount of Rs.10 lakhs. The learned Judge therefore dismissed the Application holding that the presence of the Applicant was required for custodial interrogation. Hence the present application.

4. By Order dated 14th March, 2023 this Court had granted interim protection to the Applicant. Learned APP concedes that the Applicant has appeared before the Investigating Officer and that necessary inquiry has been conducted. It is pertinent to note that a complaint was lodged on 17th December, 2022. Till date, no crime is registered against the Applicant. Learned APP states that the Investigating Officer is still inquiring into the said complaint. At this stage, all that the Investigating

Officer needs to ascertain is whether the complaint lodged on 17th December, 2022 prima facie discloses cognizable offence. Such an inquiry should not take over three months. The Investigating Agency has not been able to explain the delay in registering the crime. Considering the above facts and circumstances, in my considered view, this would be a fit case to exercise discretion under Section 438 of Cr.P.C. Hence the application is allowed on the following terms and conditions:-

- (i) In the event of arrest of the Applicant in by Kanjurmarg Police, in connection with the complaint filed by one Mr. Dominic Silvera, Administrative Officer of M/s. Hafele India Pvt. Ltd, the Applicant be released on bail on furnishing bail bond of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount, to the satisfaction of the Investigation Officer.
- (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 details, and/or change of residence or mobile/contact details from time to time.

(iv) The Applicant shall not interfere with the Complainant and the other witnesses, or tamper with the evidence in any manner.

(ANUJA PRABHUDESSAI, J.)