

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

ANTICIPATORY BAIL APPLICATION NO.815 OF 2023

1. Gulabchand Baid
2. Dhruv Baid ...Applicants

Versus

The State of Maharashtra ...Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO.816 OF 2023**

1. Hemant Baid
2. Ashok Baid ...Applicants

Versus

The State of Maharashtra ...Respondent

...

Mr. Sudeep Passbola i/b. Ms Poonam Ankleshwaria, Mr. Parag Shah, Ms Shraddha Prajapati, Mr. Harsh Dattani, Mr. Jagrut Patil and Mr. Prathamesh Parkar for the Applicants in both the applications.

Mr. S.V. Gavand, APP for the Respondent-State.

Ms Nehal Patil with Mr. Ujjwal Gandhi, Ms Saakshi Jha and Mr. Omer Farooq for the Intervenor.

Mr. Ahire, PSI, MIDC Police Station, Mumbai, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 17th MARCH, 2023.

P. C. :-

1. These applications are filed under Section 439 of the Cr.P.C. by the aforesaid Applicants for pre-arrest bail apprehending their arrest in C.R. No.710 of 2022 registered with M.I.D.C. Police Station, Mumbai, for the offences punishable under Sections 120-B, 406 and

420 of the IPC.

2. Heard Mr. Sudeep Passbola, learned counsel for the Applicants, Mr. S.V. Gavand, learned APP for the Respondent -State and Ms Nehal Patil, learned counsel for the Intervenor. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by Praful Domadiya, who is a director of M/s. Starwing Plastic and Chemicals Pvt. Ltd. A perusal of the FIR prima facie reveals that the said Company is in business of importing of polymer, chemical and polyester raw material products and supply of the said product to various companies. It is stated that since 2014 the said company has been supplying polyester chips to M/s. Baid Industries Pvt. Ltd. of which the Applicants herein are the directors. The Complainant has alleged that since the year 2015, M/s. Baid Industries Pvt. Ltd. was liable to pay to the Complainant's Company an amount of Rs.1,91,40,826/-. The Complainant's Company stopped supplying the raw material to M/s. Baid Industries for refusal to pay the dues. In the year 2018 the Complainant filed a civil suit against M/s. Baid

Industries and its directors for recovery of money. The First Informant and the Applicants in Anticipatory Bail Application No.816 of 2023 entered into a settlement and agreed to pay the amount mentioned in the terms. It is stated that the Applicants in ABA No.815 of 2023 are signatories to the consent terms and they had guaranteed payment of the money by the Applicants. Based on the settlement, a consent decree was passed and the Applicants in Anticipatory Bail Application No.816 of 2023 issued post dated cheques in favour of the Complainant's Company. It is stated that the cheques issued by the said Applicants were dishonoured. The Complainant's Company thereafter filed execution proceedings before the Court at Surat against M/s. Baid Industries and its Directors and recovered an amount of Rs.75,95,273/-. The First Informant states that M/s. Baid Industries has not yet paid the balance amount of Rs.2,75,07,067/- despite several requests. On the basis of the said allegations the Complainant has lodged the FIR alleging that the Applicants have misappropriated an amount of Rs.2,75,07,067/-.

4. Learned counsel for the Intervenor states that the Applicants have already mortgaged their properties and the Complainant is unable to recover the dues. She further states that

custodial interrogation of the Applicant is required to enable the Complainant to recover the money.

5. The records reveal that the execution proceedings for recovery of the money, which is filed before the Court at Surat is pending. The FIR is lodged solely on the ground that the First Informant is unable to recover the amount through the civil process. Custodial interrogation is sought for the same purpose. Suffice it to say that the police machinery cannot be used to recover the dues.

6. The records prima facie indicate that the complaint has been filed only to facilitate recovery of the said amount by using police machinery, which is not permissible. In my considered view this is not a case which would justify custodial interrogation.

7. Under the circumstances, the applications are allowed on the following terms and conditions:-

- (i) In the event of arrest of the Applicants in C.R. No.710 of 2022 registered with M.I.D.C. Police Station, Mumbai, the Applicants shall be released on bail on furnishing PR bonds in the sum of

Rs.30,000/- each with one or two sureties each to the like amount.

(ii) The Applicants shall report to the Investigating Officer for two days from 21/03/2023 between 11.00 a.m. to 2.00 p.m. and thereafter as and when required by the Investigating Officer.

(iii) The Applicants shall keep the Investigating Officer informed of their current addresses and mobile contact numbers, and /or change of residence or mobile details, if any, from time to time.

8. Applications stand disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)