

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.385 OF 2021

Kunal Jiwarajka

...Applicant

vs.

The State of Maharashtra

...Respondent

WITH

INTERIM APPLICATION NO.1237 OF 2021

IN

ANTICIPATORY BAIL APPLICATION NO.385 OF 2021

Jayesh Gupta

...Applicant

vs.

The State of Maharashtra

...Respondent

....

Mr. Rajiv Chavan, Senior Advocate, a/w. Ms. Megha Gupta and Ms. Vrinda, i/b. Hedgehog & Fox, for the Applicants.

Mr. Kartik Garg, for the Intervenor.

Mr. S.H. Yadav, APP, for the Respondent State.

Mr. Shailendra Jagdale, API, BKC Police Station, Mumbai.

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CORAM : ANUJA PRABHUDESSAI, J.

DATE : 24 APRIL 2023

P.C.:

This is an application under Section 438 of the Cr.P.C. filed by the aforesaid Applicant apprehending his arrest in Crime No.300 of 2020 registered with BKC Police Station, Bandra East, Mumbai, for

offences punishable under Sections 403, 406, 420 r/w 34 of the IPC.

2. Heard Mr. Rajiv Chavan, Senior Advocate, for the Applicant, Mr. S.H. Yadav, learned APP for the Respondent State and Mr. Kartik Garg, learned Counsel for the First Informant. I have perused the records and considered the submissions advanced by learned Counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by Mohammed Naved Ali Khurshid Ali Mirsaheb. It is the case of the prosecution that the Applicant is the Director of JSK Marketing Ltd. It is alleged that the Applicant/Director of Company had availed loan from the First Informant for purchase of machinery. It was stated that the Applicant did not repay the loan amount and that he did not install the said packaged machinery, which was hypothecated to the Complainant Company.

4. It is to be noted that learned Sessions Judge had granted interim bail to the Applicant during pendency of the bail application. Upon dismissal of the said application, this Court, by order dated 10 February 2021, extended the interim protection granted by the Sessions Court. The interim relief has been extended from time to time. The records reveal that by letter dated 25 February 2021, the Applicant had informed the Senior Inspector of BKC Police Station, Mumbai, that he is available for interrogation and that he is ready to give statement and

co-operate with the investigation. The said letter was received by the said Police Station. Despite which the Applicant was not called by the Investigating Officer and no reasons are assigned for not interrogating him and further showing him as an absconding accused in the charge-sheet, which was filed before the learned Magistrate.

5. Considering the above facts and circumstances, in my considered view, this would be fit case to grant pre-arrest bail to the Applicant. The application is allowed on the following terms and conditions:-

- (i) In the event of arrest of the Applicant in C.R. No.300 of 2020 registered with BKC Police Station, Bandra East, Mumbai, the Applicant shall be released on bail on furnishing PR bonds in the sum of Rs.25,000/- with one or two sureties to the like amount;
- (ii) The Applicant is directed to report to the Investigating Officer as and when called by the Investigating Officer and shall co-operate with the investigation;
- (iii) The Applicant shall not tamper with the prosecution evidence and or influence the witnesses in any manner;
- (iv) The Applicant shall keep the Investigating Officer informed of

his current address and mobile contact numbers, and/or change of residence or mobile details, if any, from time to time.

6. The application stands disposed of. The interim application is also disposed of.

(ANUJA PRABHUDESSAI, J.)