

SA Pathan

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

ANTICIPATORY BAIL APPLICATION NO. 1235 OF 2023

Tushar Narayan Chimanpure ... Applicant
V/s.
The State of Maharashtra & Anr ... Respondents

SHABNOOR
AYUB
PATHAN
Digitally signed
by SHABNOOR
AYUB PATHAN
Date: 2023.08.07
18:47:09 +0530

**WITH
ANTICIPATORY BAIL APPLICATION NO. 1236 OF 2023**

Bhushan Gunvant Kotkar ... Applicant
V/s.
The State of Maharashtra & Anr ... Respondents

Mr. Aniket Nikam a/w Varad Ozarkar i/by Amit Icham,
for the Applicants.

Mrs. Rutuja Ambekar, APP for the State-Respondent.

Mr. Vaibhav N Jadhav a/w Mr. Piyush U Raje, for
Respondent No.2 in both the ABAs.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 7, 2023

P.C.:

1. Apprehending arrest in connection with C.R.No.218 of 2023 registered with Ambad police station, Nashik for offences punishable under Sections 418, 420, 465, 468, 471, 477-A r/w 34 of the Indian Penal Code, 1860 (for short 'IPC'), the applicant in both the Anticipatory Bail Application is seeking relief of pre-arrest bail under Section 438 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.').

2. According to prosecution, the Graphitrodes Pvt. Ltd. company was enrolled by the complainant and Tushar Chimanpure i.e. the present applicant. The complainant was looking after the work of production, planning and camper programming whereas the accounts of the company and dispatch was looked after by the applicant whereas Mr. Bhushan Kotkar is the Chartered Accountant of the company and looking after the work of audit. It is alleged that the applicant and Bhushan Kotkar have submitted wrong information of the company in the audit report and forged signature of the complainant and submitted before the ROC. It is alleged that when resolution was passed all the financial directions will be passed by the signature of both the directors even then the sum of Rs.2,10,000/- had withdrawn without consent of the complainant and he was cheated. Therefore, the report filed with the concerned police station.

3. Applicants, therefore, filed application under Section 438 of Cr.P.C. before learned Sessions Judge which came to be rejected by order dated 18 April 2023.

4. On perusal of material on record, it appear that though there are allegations of forging signature of complainant and uploading audit report, the informant and the applicant in their capacity as directors of company condoned the acts of applicants. The applicant in Anticipatory Bail Application No.1236 of 2023 is the Chartered Accountant. The allegation against him is that being professional, it was his duty to scrutinize the contents of information and contents of audit report.

5. On perusal of resolution dated 18 July 2022 and agreement entered into between the parties executed on 16 July 2022, applicants and informant had settled their dispute in terms of clause stated therein. Subsequent failure to perform their part of contract may be enforceable before the appropriate Court. However, in view of resolution dated 18 July 2022 and agreement dated 16 July 2022, custodial interrogation of the applicant is not necessary. Hence, following order:

- a) In the event of arrest of applicants in connection with C.R.No.218 of 2023 registered with Ambad police station, Nashik for offences punishable under Sections 418, 420, 465, 468, 471, 477-A r/w 34 of IPC, they be released on bail on furnishing P.R. bond of Rs.50,000/-, along with one or two sureties in the like amount.
- b) Applicants shall remain present before the concerned police station on 11th, 14th and 17th August, 2023 between 11:00 am to 2:00 pm and thereafter, as and when called by the investigating officer.
- c) Applicants shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.
- d) Applicants shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police.
- e) The applicant shall, at the time of execution of the

bond, furnish their addresses and mobile numbers to the investigating officer, and the Court concerned, and shall not change the residence till the final disposal of the case.

6. Both the anticipatory bail applications stand disposed of in above terms.

(AMIT BORKAR, J.)