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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1464 OF 2023**

Sunil Kumar Garg

....Applicant

V/s.

State of Maharashtra

....Respondent

Mr. Aabad Ponda Senior Advocate a/w Ms. Shradha Achliya i/b Ms.
Sapana Rachure Advocate for the Applicant
Mr. S. R. Agarkar APP for the State
Mr. Mohan Rao Advocate for First informant/Intervener
Ms. Sarika Jagtap, API, Hadapsar Police Station

**CORAM : GAURI GODSE, J.
DATED : 17th MAY, 2023
(VACATION COURT)**

P.C. :-

1. This Application is filed by for seeking pre-arrest bail in connection with C. R. No. 584 of 2023 dated 17th April 2023, registered with Hadapsar Police Station, District Pune, for the alleged offences punishable under Sections 406, 420, 465, 467, 468, 471, 474 read with 34 of the Indian Penal Code.
2. Learned senior counsel appearing for the Applicant submitted that Anticipatory Bail Application filed before the Additional Sessions Judge-15, Pune, is kept pending, and prayer for ad-interim Anticipatory Bail is rejected. Hence, the present Application is filed.

3. Learned senior counsel invited my attention to the Maharashtra State amendment to Section 438 of the Code of Criminal Procedure, 1973. He also relied upon the decisions of this Court in the case of **Sanjay Mishrimal Punamiya Vs. The State of Maharashtra¹** and **Narendra Lalchand Mehta and Anr Vs. State of Maharashtra²**. He thus submitted that in view of the settled position of law, it was not permissible for the Additional Sessions Judge to keep the Anticipatory Bail Application pending. He submitted that either his application could have been rejected or interim protection ought to have been granted.

4. Learned APP, as well as the learned counsel appearing for the intervener-complainant, does not dispute this position of law. Since the Application is still pending in the Session Court, they agree that the present Application can be disposed of by issuing necessary directions for deciding Anticipatory Bail Application which is pending with the Sessions Court.

5. So far as the interim protection is concerned, learned senior counsel appearing for the Applicant submitted that the allegation against the Applicant is that he has misused his position as Managing Director in the company. He also submitted that the nature of the

¹ ABA No. 2512 of 2021 dated 22nd October 2021

² ABA No. 1403 of 2022 dated 26th May 2022

dispute is, in fact, a civil dispute, and there is already civil litigation pending for recovery of the amount alleged to have been received by the Applicant.

6. In view of the aforesaid facts and circumstances, this Application is disposed of by passing the following order.

I. Learned Additional Sessions Judge-15 Pune is directed to hear and finally dispose of Anticipatory Bail Application No. 3094 of 2023 within a period of 4 weeks from the date of receipt of this order.

II. In the meanwhile, no coercive action shall be taken against the Applicant pending the decision of the Anticipatory Bail Application No. 3094 of 2023.

III. It is made clear that if any adverse order is passed against the Applicant, then the interim protection granted by this Court shall be extended by one week thereafter from the date of passing of the adverse order so as to enable the Applicant to approach the higher Court.

IV. It is further made clear that I have not expressed any view on the merits of the Application.

V. All contentions of the parties are kept open.

VI. Application is disposed of in the aforesaid terms.

(GAURI GODSE, J.)