

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

ANTICIPATORY BAIL APPLICATION NO.960 OF 2024

Pravin Dattatray Talole

.... Applicant

versus

State of Maharashtra

.... Respondent

.....

- Mr. Vaibhav M. Parashurami i/b. Kishor Walanju, Advocate for Applicant.
- Ms. Pallavi N. Dabholkar, APP for the State/Respondent.
- Mr. Rajabhau Chaudhari, Advocate for Complainant.

CORAM : SARANG V. KOTWAL, J.

DATE : 10th APRIL, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.8/2024, dated 18/01/2024, registered with Alankar Police Station, Pune City, under sections 406, 420 r/w 34 of the Indian Penal Code.

2. Heard Mr. Vaibhav M. Parashurami, learned counsel for the Applicant, Mr. Rajabhau Chaudhari, learned counsel for the Complainant and Ms. Pallavi N. Dabholkar, learned APP for the State.

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3. The FIR is lodged by one Sagar Aasangi. He has stated that he had the business in respect of advertisement and publication. He was knowing one Mangesh Zembade who used to do the job of flex printing. The informant used to give work to Mangesh. The FIR mentions that Mangesh had not paid Rs.5,50,000/- to the informant in their business transaction. The present Applicant was a partner of M/s. Farmer Home Healthify Agro Ltd.

4. According to the informant, the Applicant was aware that the said amount was due from Mangesh. In July 2023, the Applicant told the informant that he had an order for some advertisement to the tune of Rs.12 lakhs and that the informant should pay Rs.6 lakhs to Mangesh for purchasing the material. The order could be completed by the informant and Mangesh. Initially, the informant refused, but the Applicant persisted. It is mentioned that the Applicant sent a purchase order on 30/07/2023. The informant asked for advance from the Applicant, when the informant was told by the Applicant to start

the work. It is further mentioned that, at the instance of the Applicant, the informant transferred Rs.6 lakhs in the account of Mangesh for purchasing the material. The informant was expecting the work to start within 5 to 6 days. However, Mangesh did not start any work. He did not purchase any material. Mangesh was not doing any work in relation to that order. He did not even return the money given by the informant. When Mangesh was confronted by the informant, Mangesh told him that the money given by the informant, was immediately transferred to the Applicant's account and that the Applicant had told Mangesh to collect money in this manner from 3 to 4 others. They were also issued fake purchase orders and they were also cheated. The FIR mentions names of 3 such other persons, viz. Milind Zalke, Saurav Kapileshwarkar and Ganesh Mane. The allegations are that, in all, Rs.13,52,240/- were misappropriated in this manner. On these allegations, the FIR is lodged.

5. Learned counsel for the Applicant submitted that the Applicant had genuinely given that work to the informant,

which is evident from the purchase order dated 30/07/2023 for getting Rexin silky plain polyester for Rs.10,40,000/-. The Applicant had paid Rs.50,000/- in that connection. Learned counsel for the Applicant relied on the communication between the informant and the Applicant wherein the Applicant had told the informant that since the project was not started, the Applicant was not interested in going ahead with the project. Learned counsel for the Applicant submitted that considering this document, if at all there is dispute, it could only be a civil dispute. There is no criminal offence. At the highest it is a case where the purchase order was not completed by the parties.

6. Learned counsel for the Applicant further invited my attention to the C.R.No.12/2024 registered with Alankar police station on 23/01/2024 by the brother of the present Applicant u/s 12 and 7A of the Prevention of Corruption Act, 1988. That FIR was in respect of the bribe demanded by the previous Investigating Officer investigating in the present C.R. No.8/2024 of the said police station. The said Investigating Officer was demanding Rs.40,000/- for which the FIR was lodged by the

Applicant and the said Investigating Officer was actually found accepting that amount of Rs.40,000/-. Learned counsel submitted that this shows that the FIR is lodged and is being investigated with malafide intentions. The Applicant's custody in this background is not necessary.

7. Learned APP produced the investigation papers before me, which contain the statements of the other persons.
8. Learned counsel for the first informant has supported the stand taken by learned APP and he has relied on the allegations made in the FIR.
9. I have considered these submissions. The investigation papers contain the statements of the other persons with whom the Applicant had placed the purchase orders viz. Milind Zalke, Saurav Kapileshwarkar. There was a dispute for not going ahead with the work given through the purchase orders. I find substance in the submissions of learned counsel for the Applicant that at the highest it can be a civil dispute, for which

the question of damages would be more important. It is difficult to observe that any criminal offence is made out. In respect of the transaction of giving money by Mangesh to the Applicant, there is privity of contract between Mangesh and the Applicant. The informant himself had not paid that amount directly to the present Applicant. In fact, the communication shows that the Applicant had showed intention to cancel the purchase order given to the informant. Apart from that, the FIR lodged by the Applicant himself against the earlier Investigating Officer is quite disturbing. The said Investigating Officer was caught accepting the bribe amount, which also supports the Applicant's case that he is being involved and implicated with malafide intentions. In this view of the matter, the Applicant's custodial interrogation is not necessary. It would be sufficient if he cooperates with the investigation.

10. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.8/2024, dated 18/01/2024, registered

with Alankar Police Station, Pune City, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

- (ii) The Applicant shall attend the concerned Police Station from 24/04/2024 to 25/04/2024 between 01.00 p.m. to 05.00 p.m. and thereafter as and when called and shall cooperate with the investigation.
- (iii) The application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)