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

**ANTICIPATORY BAIL APPLICATION NO.2889 OF 2021**

**Sachin Prakash Kate ....Applicant**
**V/S**
**The State of Maharashtra ....Respondent**

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Ms. Sakshi Mane i/b Mr. Siddhesh R. Samel *for the Applicant.*
Mr. Ashok A. Gawai, APP *for Respondent/State.*

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**CORAM: SANDEEP V. MARNE, J.**
**DATE : 11 MARCH 2024.**

**P.C.:**

1 This Application is filed seeking pre-arrest bail in connection with CR No.677 of 2021 registered with Pimpri Police Station under sections 406 and 420 of the Indian Penal Code.

2 The facts giving rise to the Application have been recorded succinctly in order passed by this Court on 3 December 2021 in paragraphs 2 to 4 as under:

> 2. The Applicant claim to be a businessman and he is dealing with industrial machineries and his business is conducted in the name and

style of ”Technofront Electronics’. One Kiran Thombre, a director of Sairaj Lights Private Limited has placed an order with the firm of the Applicant for purchase of one Semi-Automatic Tencil Printer along with certain other industrial goods worth Rs.1,06,20,000/-, and the case of the Applicant is that they were provided to Kiran Thombre and duly accepted by him. As far as the complaint is concerned, the Complainant is alleging that she was having two machines with her, as she along with her husband is into the business of assembling spare parts. The machines which are described by her in the F.I.R. are purchased by her by obtaining a loan and she is paying the installments / EMIs to the bank for the purchase of said machines. As per the Complainant she had called the Applicant for servicing of the said machines since it faced some technical problem. The allegation is that the Applicant indulged her by stating that he can sale the machine for which she quoted a price of Rs.15,50,000/- which was agreed by him. The allegation is that these machines were sold to Kiran Thombre but the amount is not made over to her and the cheques of Rs.10,00,000/- and Rs.5,00,000/- given were asked to be not deposited. The complaint is, therefore, lodged invoking Sections 406 and 420 of I.P.C.

3. The Counsel for the Applicant had invited my attention to an email addressed to the Complainant and her husband on 04.09.2021, where he has made it clear that he is intending to recall the said transaction. This being brought to the notice of the Complainant, no offence is made out, is the submission.

4. In any case, the aforesaid transaction require an investigation. But in my considered opinion the Complainant is a necessary party in the proceedings and if settlement can be worked out between the

> parties, since it is not an allegation that there is any loss to public exchequer but since it is inter se transaction between the Complainant and the Applicant, let the Complainant be impleaded as a Respondent."

3 After directions given by this Court for impleadment of the Complainant for a possible settlement, it appears that Applicant expressed willingness to pay a sum of Rs.5,00,000/- to the first informant on 8 July 2022 when apparently the first informant was present in the Court. Accordingly this court directed credit of amount of Rs.5,00,000/- in the account of first informant Mrs. Sadhana Chinchkar within one week.

4 On 26 August 2022 the learned counsel appearing for the Applicant informed this Court that the amount of Rs.15,50,000/- was credited in the account of the first informant. The Application was thereafter adjourned in order to enable the learned APP to verify deposit of such amount. Thereafter repeatedly time was sought by the learned APP to verify the correctness of assertion made by the Applicant about deposit of amount of Rs.15,50,000/-. On 4 March 2024 this Court granted last opportunity to the learned APP to verify deposit of the said amount by the Applicant. However today again the learned APP unfortunately has not been given instructions by the concerned Investigating Officer. It appears that the statement about deposit of the amount was made by the Applicant as as early as on 26 August 2022 and by now period of more than 1½ years has elapsed. This Application is

pending since the year 2021 and cannot be kept pending indefinitely in order to enable the learned APP to verify the position.

5 The learned counsel appearing for the Applicant has placed on record a compilation of documents which contains copies of bank statements. The learned counsel for the Applicant would submit that Applicant is Proprietor of M/s.Technofront Electronics, whose statement of account is placed on record. The said statement would reflect deposit of various amounts to M/s. Ganesh Electronics on 25 August 2022. From email correspondence at Exhibit-D to the Application it appears that M/s. Ganesh Electronics is the firm of Mr. Santosh Chinchkar and Mrs. Sadhana Chinchkar. There is thus material to show that amount of Rs.15,50,000/- appears to have been paid to the first informant. In that view of the matter, in my view, the present Application can be allowed.

6 Accordingly, the Anticipatory Bail Application is allowed. Interim protection granted by this Court by order dated 3 December 2021 is made absolute. Applicant to co-operate with police for investigations and with the Trial Court for expeditious completion of the Trial, in the event the first informant wishes to press the accusations. The Anticipatory Bail Application is accordingly disposed of.



**(SANDEEP V. MARNE, J.)**