

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

ANTICIPATORY BAIL APPLICATION NO.191 OF 2024

Suresh Henry Thomas

..Applicant

Versus

The State of Maharashtra

..Respondent

Mr. Vincent D'silva i/by Sujit A. Mane, for the Applicant.

Ms. Ranjana D. Humane, APP for the Respondent/State.

CORAM : SARANG V. KOTWAL, J.

DATE : 22nd AUGUST, 2024

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1. The Applicant is seeking anticipatory bail in connection with C. R. No.708 of 2023 registered with Bangur Nagar Police Station, Mumbai on 26th December, 2023 for the offences punishable under Sections 406 and 420 of IPC.

2. Heard learned counsel for the Applicant and learned APP for the Respondent/State.

3. The FIR is lodged by one Archana Gupta. She was in the field of film production. She was also acting in some projects. She has her own production company by the name CZ Entertainment Private Limited. She was knowing the present Applicant since past 15 years. In February, 2022, the Applicant approached her with a proposal for a project to make a Web-Series. He told the informant

that she needed to invest Rs.15,00,000/- in the project. The project would be completed between March to April, 2022 and if it would not be completed, she would get her principal amount along with interest of Rs.3,00,000/- in November, 2022. They executed an MOU. Subsequently, the project was not completed and the money was not returned. On this basis, the FIR is lodged.

4. Learned counsel for the Applicant invited my attention to the relevant clause in the MOU, which contains an arbitration clause. Learned counsel therefore submitted that it was purely a commercial dispute. The project could not be completed only because of some financial difficulties. Some portion of the Web-Series was actually shot. This would show that there was no intention to cheat the informant. Learned counsel filed an additional affidavit, which is taken on record. The additional affidavit mentions that pursuant to the said MOU, the informant's lawyer had issued a notice dated 3rd April, 2024 proposing arbitration to the Applicant. His lawyer has replied to the notice *vide* the reply dated 7th June, 2024 accepting to refer the dispute to the arbitrator.

5. Learned APP on instructions stated that after the ad-interim relief was granted to the Applicant, he has attended the concerned Police Station and has co-operated with the investigation.

6. Considering that the dispute between the parties is already referred to arbitration, there is force in the submissions

made by the learned counsel for the Applicant that it appears to be a commercial dispute. The Applicant has co-operated with the investigation and has attended the concerned Police Station. In this view of the matter, the Applicant can be protected under Section 438 of the CrPC. Hence, the following order :-

ORDER

- (a) In the event of his arrest in connection with C. R. No.708 of 2023 registered with Bangur Nagar Police Station, Mumbai, the Applicant is directed to be released on bail on his executing PR bond of Rs.30,000/- with one or two sureties in the like amount.
- (b) The Application is disposed of.

(SARANG V. KOTWAL, J.)