

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

CR. ANTICIPATORY BAIL APPLICATION NO. 292 OF 2024

Sunil Kailas Nikam

...Applicant

Versus

State Of Maharashtra

...Respondent

Mr. Shahed Ali Ansari for the Applicant.

Smt. M. H. Mhatre, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J

DATED : 2nd FEBRUARY, 2024

P.C.:

1. The Applicant is seeking anticipatory bail in connection with C. R. No. 495 of 2023 registered at V. P. Marg Police Station, dated 07/12/2023 u/s. 409, 420 r/w. 34 of the Indian Penal Code.
2. Heard Shahed Ali Ansari, learned counsel for the Applicant and Ms. Mhatre, learned APP for the Respondent-State.
3. The Applicant has not annexed the readable copy of the FIR but Learned APP produced the investigation papers including the copy of the readable FIR before me. Therefore, I have heard the parties on the basis of the material before me.
4. The FIR is lodged by one Mukeskumar Modi on 07/12/2023. He has stated that since 2019, he was having a shop at Kumbharwada, Mumbai for selling steel products. In November, 2022, one Asif

Shaikh sent a visiting card of Sahara Enterprises, Kondwa, Katraj Pune on the informant's Whatsapp. He told the informant that the said company had large business and it was safe to transact business with that company. In December, 2022 the present Applicant called the informant through his mobile phone and told the informant that he had received information about the first informant from Asif Shaikh. Thereafter, one Shabir Shaikh also contacted the informant. He also told the informant that he had received the informant's mobile number from Asif Shaikh. After that Shabir Shaikh send purchase order through courier and told the informant that after the informant sent the steel products then he would make the online payments. The informant believed the said Shabir Shaikh and the present Applicant and gave them goods between 26/12/2022 to 29/12/2022. The goods were sent through Labh Laxmi Transport Service to Kondwa, Pune. The FIR mentioned details of the goods and their price.

5. On 15/01/2023 the informant tried to contact Shabir Shaikh and the present Applicant for his payment. He was told that the payment would be made after a few days but the payment did not come forth. After that also the informant tried to contact them but they avoided the informant's phone call. The Applicant and Shabir

Shaikh also started avoiding all his efforts to contact them and get back his payment. On 22/01/2023, the informant himself went to the office of Sahara Enterprises, Kondhva, Katraj. When he went there, he came to know that there was no such office. He realized that he was cheated. Thereafter also he tried to contact Shabir Shaikh and the present Applicant but their mobile phones were unreachable. The informant lost his goods worth Rs. 5,19,696/-. On this basis, the FIR is lodged.

6. Learned Counsel for the Applicant submitted that the Applicant had not placed any purchase order and he had not received any goods. Therefore, the Applicant has not played any part in the offence. In this background, his custodial interrogation will not serve any purpose. He is willing to co-operate with the investigation.

7. Learned APP relied on the allegations made in the FIR itself.

8. I have considered these submissions. The investigation papers show that the informant had sent those goods to Sahara Enterprises. However, as of today the investigating agency has not connected the phone numbers mentioned in the FIR with the present Applicant. The investigation is still going on and the learned APP seeks time to enable the investigating agency to find the connection of the present Applicant with the phone numbers mentioned in the FIR. In this view

of the matter, today the Applicant can be protected by way of ad-interim relief with the directions to the Applicant to co-operate with the investing agency.

9. Hence, the following order:

ORDER

- (i) In the event of his arrest in C. R. No. 495 of 2023 registered at V. P. Marg Police Station till the next date, the Applicant be released on bail on his executing P. R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) This order shall operate till **19/03/2024**.
- (iii) The Applicant shall attend the concerned Police Station on 20th, 21st and 22nd February, 2024 between 1.00PM to 5.00PM and thereafter as and when called.
- (iv) The Applicant shall cooperate with the investigation.
- (v) Stand over to 19/03/2024.

(SARANG V. KOTWAL, J.)