

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

Anticipatory Bail Application No.1607 of 2024

Gaurav Makkar

(Age: 35 Yrs; Occ:Business)

R/o:1206, Tower J, Sector 37 C,

Corona Optus Gurgaon, Haryana,

Pin-122001.

... Applicant.

Vs.

The State of Maharashtra

(through the Investigating

Officer, NRI Sagari (Navi-Mumbai)

Police Station.

... Respondent.

Mr Taranjit Singh for the applicant.

Ms Anuja Gotad, APP for the respondent/State.

API Khadke, NRI Coastal Police Station is present.

Coram : RN Laddha, J.

Date : 18 June 2024.

P.C. :-

Heard Mr Taranjit Singh, the learned Counsel appearing on behalf of the applicant, and Ms Anuja Gotad, APP the learned Additional Public Prosecutor appearing on behalf of the respondent/ State.

2. This is an application for pre-arrest bail filed by the applicant apprehending arrest in CR No.059 of 2024, registered at NRI Sagari Police Station, Navi Mumbai, for offences punishable under Sections 406, 409, 420, 465, 467, 468 read with 34 of the Indian Penal Code.

3. The prosecution alleges that the applicant holds the position of director at MS Hazelnut Cyborg Infra Solutions Private Limited, a company engaged in importing, exporting agricultural products, real estate and hardware. According to the FIR, filed by the first informant, he was induced by the applicant to purchase 135 tons of sugar from Sajid of Guven Traders for the purpose of exporting. He claims to have paid Rs. 37,81,500/- to the applicant, who only returned Rs.11,90,000/- and withheld the remaining amount of Rs.25,91,500/-. It is further alleged that Sajid and his intermediary Deepak Kumar received Rs.34,40,000/- and Rs.40,000/- respectively from the informant totalling Rs.60,71,500/- paid for the sugar which was never delivered by the applicant. The amount was paid on the basis of a bill received from the applicant by the informant, which later was found to be forged.

4. The learned Counsel, appearing on behalf of the applicant, submits that the informant had previously engaged the applicant for various consultations and services. The initial complaint, filed in Gurgaon, Haryana, was deemed by the police to be a civil dispute rather than a criminal offence. According to the learned Counsel the present complaint is an attempt to exert pressure on the applicant. The applicant has meticulously documented all financial dealings in the accounting records. Relying on the case of ***Ravindra Saxena Vs. State of Rajasthan, Criminal Appeal No.2406 of 2009 (SC)***. The learned Counsel contends that the applicant is entitled to anticipatory bail since the dispute being purely civil in nature, the applicant deserves for grant of anticipatory bail. The applicant is willing to cooperate with the investigation.

5. On the other hand, the learned Additional Public Prosecutor, representing the respondent/State, submits that the applicant orchestrated the crime. The Gurgaon police did not take the cognizance due to lack of jurisdiction, as the crime occurred in Navi Mumbai. The applicant failed to supply sugar despite receiving Rs.25,00,000/- through a bank bank transfer. Instead, he sent a bill via WhatsApp of Inox Shipping Company, which later confirmed that they had no

record of such a bill. The applicant is accused of fabricating this document. Additionally, he did not respond to two notices under Section 41-A CrPC and has not cooperated with the police investigation.

6. Upon perusal of the record, it is *prima facie* apparent that the applicant has not disputed the receipt of amount of more than Rs.25,00,000/- from the informant and has also failed to deliver the sugar. The applicant asserts that he has rendered various services to the informant, resulting in a outstanding amount of Rs.5,00,000/- owned by the informant, yet no details have been furnished. The bill issued to the informant was found to be forged, and using this bill, the applicant has deceived the informant and misappropriated a substantial sum. The investigation is at a nascent stage and the custodial interrogation of the applicant would be necessary. The facts of the referenced case do not align with those of the present case and are thus not applicable. Consequently, the application stands rejected.

[R. N. Laddha, J.]