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

## Anticipatory Bail Application No.1893 of 2024

Mayur B Padia
Age: 47, Occupation:
Chartered Accountant,
Having address at Flat No.
2005, A Wing, Phase One,
Lake Homes, Powai, Mumbai
400 076 Maharashtra, India ... Applicant

v/s.

The State of Maharashtra
(At the instance of DB Marg Police
Station, Mumbai, Maharashtra) ... Respondent

----

Mr Subodh Desai, i/b. Mr Arjun Jetly, for the applicant.
Ms Pallavi Dabholkar, APP, for respondent/ State.
API Dhumal and PSI Pradip Marathe, DB Marg Police Station, are present.

----

**Coram: RN Laddha, J.**
**Date: 10 July 2024**

**P.C.:**

Heard Mr Subodh Desai, the learned Counsel appearing on behalf of the applicant, and Ms Pallavi Dabholkar, the learned Additional Public Prosecutor representing the respondent/ State.

2. By the present application, the applicant seeks pre-arrest bail in connection with CR No.314 of 2024, registered at DB Marg Police Station, Mumbai, for offences punishable under Sections 409, 420 and 120-B of the Indian Penal Code.

3. The prosecution alleges that in September 2022, the co-accused, Jitin Masand, engaged in the trade of LED Televisions through Okie Ventures Pvt. Ltd., promised the complainant substantial profits on investments in his company. The complainant agreed, and the initial investment of Rs.23,30,638/- put into motion the shipping of the goods. The sealed goods were delivered and accepted, thereafter the complainant released the balance investment of Rs.16,69,381/-. However, on unboxing, these goods were found to be defective. The complainant promptly raised concerns with Jitin, who assured replacing the faulty goods with a fresh batch. The fresh goods worth Rs.11,71,998/- were delivered to the complainant. Unfortunately, on inspection, 70% of the products were found defective. Once again, concerns were raised and discussed with Jitin, who requested the delivery of these goods to Paramjeetsingh Sikka alias Goldie.

4. Subsequently, Jitin, assuring profits, proposed to the complainant to make another investment to enable him to procure a new TV brand and handed over cheques of Rs.4,00,000/- as security. The complainant agreed and transferred Rs.49,00,000/- to Jitin between 15 November 2022 and 13 December 2022. The new consignment was once again found to be defective. Jitin, again, requested the complainant to further

invest Rs.15,00,000/- for repairs of the faulty products. As the complainant had already invested heavy sums, on 21 December 2022, he again transferred Rs.15,00,000/- to Jitin. Following Jitin's guidance, the complainant delivered the goods to Wamy Technologies LLP, Cosmo Distribution Company, and Axavie Trade-Links. The complainant repeatedly followed up with Jitin for the refund of his investment; however, after receiving evasive replies, the complainant threatened Jitin to file a police complaint. Afraid of the consequences, Jitin returned Rs.31,00,000/- in instalments.

5. In January 2023, Jitin introduced the complainant to the applicant, a chartered account, to assist him in recovering the outstanding dues. In a meeting, the applicant assured the complainant that he would compensate for his losses in exchange for GST work and, to build trust, handed over a cheque of Rs.21,00,000/- issued by the company. Jitin then delivered goods worth Rs.11,49,000/-, which again turned out to be faulty. The incident was communicated to the applicant, who once again assured the complainant about compensating his losses, as the applicant's mother, Rama Padia, was also a director of the company and liable to pay the dues. Frustrated, the complainant presented the security cheque for encashment, which came to be dishonoured.

6. After rounds of discussion, the applicant, the complainant, and Jitin arrived at a mutual agreement that the complainant would further invest Rs.70,00,000/- and the applicant's immovable property at Andheri would be mortgaged in favour of the complainant till the repayment of his dues totalling Rs.85,00,000/-. It was also agreed that the complainant had a right to retain the collateral in the event of losses. The applicant and co-accused Jitin, to demonstrate their sincerity and reinforce the complainant's trust, issued a cheque of Rs.85,00,000/- in favour of the complainant. Accordingly, on 21 August 2023, an agreement styled as a 'mortgage agreement' was executed. After that, from 24 August 2023 to 31 August 2023, on the accused's instructions, the complainant invested Rs.44,00,000/- in Kilip Technologies. Later, Jitin assured the complainant that he would collect the goods delivered from Noida to Gulbarga, Karnataka. However, despite repeated phone calls, Jitin did not accept the delivery of these goods. Eventually, Jitin asked the complainant to deliver these goods to a godown in Hyderabad, which the complainant did. When the complainant inquired about the payment, Jitin assured him that the dues would be settled after selling the products; however, these products remained unsold.

7. Later, the complainant informed Jitin about filing a police complaint, leading to Jitin transferring Rs.16,50,000/- to the complainant's account. As the outstanding amount remained

unpaid, the complainant informed the applicant and Jitin about taking over the possession of the collateral immovable property at Andheri. The applicant responded to the complainant on email, informing him about his resignation from the directorship of Okie Ventures Pvt. Ltd. and cancelling the agreement. Aggrieved by the alleged deceitful act of the applicant and co-accused Jitin, the complainant filed the present FIR.

8. Mr Subodh Desai, the learned Counsel appearing on behalf of the applicant, argues that the allegations in the FIR mainly pertain to the complainant's dispute with co-accused Jitin. The complainant has unjustly implicated the applicant in the alleged crime. He submits that the applicant has no financial dealings with the complainant. The learned Counsel invites this Court's attention to the mortgage agreement to contend that the dispute is purely of a civil nature. According to the complainant's case, the transaction occurred between September 2022 and November 2023, although the complainant lodged the FIR belatedly in 2024. The delay in filing the FIR remains unexplained.

9. Mr Desai, the learned Counsel, further submits that no material on record *prima facie* suggests the commission of any offence under the Indian Penal Code, let alone the offences under Sections 409, 420 and 120-B. The applicant neither caused wrongful loss nor gained wrongfully, and there was no intention

to deceive the complainant. The investigation is almost complete, and all the documents are in the possession of the investigating agency. The applicant is willing to cooperate with the investigation.

10. On the other hand, Ms Pallavi Dabholkar, the learned Additional Public Prosecutor representing the respondent/State, submits that the co-accused, Jitin Masand, and the applicant, through Okie Ventures Pvt. Ltd., sold defective goods worth Rs.39,62,290/- to the complainant between 1 October 2022 to 21 January 2023. These faulty products were neither replaced nor repaired by the applicant and co-accused. The learned APP further submits that the applicant and co-accused Jitin, in connivance with each other, induced the complainant to further invest a considerable sum of Rs.44,00,000/-. Subsequently, when the complainant demanded a refund of his investment from both accused, the applicant terminated the agreement. The investigation is in progress. If the applicant is granted bail, he may tamper with the evidence or influence the witnesses.

11. After reviewing the records, it appears that initially, the applicant was not involved in the dealings between the complainant and the co-accused, Jitin. In the mortgage agreement entered among the applicant, the complainant and co-accused Jitin, the applicant stood as a surety of Jitin's debt and agreed to

provide his flat being Flat No.B-1/ 502, Level 4, Laram Center, Andheri West, Mumbai, as collateral, only to assist the company, specially, Jitin, in his business. It is clarified and agreed by the parties that the applicant has no commercial/ financial interest but acts purely as a surety. The agreement also reveals the existence of a dispute resolution clause referring the parties for arbitration. Furthermore, it appears that on 5 February 2024, the complainant filed a NC complaint, wherein the applicant appeared before the investigating officer on 4 March 2024, supplied the necessary documents and recorded his statement. This is much prior to filing of the present FIR dated 1 June 2024. The dispute *prima facie* arises from a business transaction and seems to be of a civil nature, and the necessary documents are already in the custody of the investigating agency. The prosecution's apprehension about tampering with evidence and influencing of witnesses can be addressed by imposing appropriate conditions.

12. In view of the foregoing, the present applicant is allowed in the following terms:

> (i) In the event of the applicant's arrested in connection with CR No.314 of 2024, registered at DB Marg Police Station, Mumbai, he shall be released on bail upon executing a PR Bond of

Rs.25,000/-, with one or more sureties in the like amount.

(ii) The applicant shall attend the police station as and when required.

(iii) The applicant, himself or through any other person, shall not indulge in any activities that would tamper with the evidence or influence the witnesses.

13. The application stands disposed of accordingly.

**[R. N. Laddha, J.]**