IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Anticipatory Bail Application No.1923 of 2024

Ramkishor Ramjas Gupta
Age about-47 years, Hindu,
Indian Inhabitant, Occ: Business
Residing at a room near Building No.26
Dr Ambedkar Nagar No.2,
Jyotirling Nagar, Bhairavnath Chawl,
Mankhurd, Shivaji Nagar, Mumbai,
Maharashtra- 400043 … Applicant

v/s.

The State of Maharashtra
Through Public Prosecutor of this
Honourable High Court Bombay
at the instance of The Senior
Inspector of Police,
Meghwadi Police Station
Mumbai, in their
FIR No.289 of 2024 … Respondent

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Mr RM Upadhyay, a/w. Mr Swatesh Tripathi, for the Applicant.
Ms Mahalaxmi Ganapathy, APP, for Respondent/ State.

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Coram: R.N. Laddha, J.
Date: 12 July 2024

P.C. :

Heard Mr RM Upadhyay, the learned Counsel, appearing on behalf of the applicant, and Ms Mahalaxmi Ganapathy, 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.289 of 2024, registered at Meghwadi Police Station, Mumbai, for offences punishable under Sections 419, 420 read with 34 of the Indian Penal Code.

3. The informant, who operates under the business name 'Jaya Trading Company', used to supply goods to the applicant, a textile trader. However, due to an outstanding payment of Rs.60,00,000/-, the informant ceased supplying goods to the applicant. Meanwhile, the co-accused, Ravishankar Pandey, placed an order worth Rs.5,47,947/- with the informant for one Anku Dubey, the proprietor of M/s Chirag Enterprises. Between 9 June 2023 and 23 June 2023, the informant dispatched goods worth Rs.37,92,490/- to M/s Chirag Enterprises. Surprisingly, when the informant's office boy visited Chirag Enterprises' office in Madhav Baugh, Dadar (East), Mumbai, he discovered that Anku Dubey was not its proprietor and no order had been placed with the informant's company. Further investigation revealed that the applicant instructed the tempo driver, who transported the goods, to unload them at Raj Fabrics in Vidyavihar, Mumbai. When the informant confronted the applicant, he assured repayment for the entire amount claiming that the goods were sent to Delhi. However, no such payment was received resulting

into filing the present FIR.

4. Mr RM Upadhyay, the learned Counsel for the applicant, asserts that the applicant has actively cooperated with the investigation by attending the police station on three occasions, provided all the required documents to the investigating agency, and his statement was also recorded. The informant has also filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'NI Act'), against the applicant, stemming from the same cause of action. According to the learned Counsel, the dispute between the applicant and the informant is of a civil nature. The informant is attempting to recover the alleged business payment by leveraging police machinery. Mr Upadhyay, draws the Court's attention to the invoices and the booking order dated 27.06.2023 from 'Jaya Laxmi Trading Company', issued in the name of the applicant's firm, 'Raj Fabrics'. The learned Counsel submits except the bare statement of the tempo driver, nothing is on record to link the applicant to the present crime.

5. Mr Mahalaxmi Ganapathy, the learned Additional Public Prosecutor, argues that the applicant placed an order under a fictitious name, 'Anku Dubey'. By misleading the tempo driver of the informant's company, the applicant had the entire goods

delivered to his own godown. Subsequently, these goods were transported to the applicant's clients in Delhi. Although, this transaction claims to be civil, the applicant's intention from the outset was to deceive the informant. The offence was premedited and meticulously planned.

6. Upon reviewing the records, it is evident that there were business transactions between the applicant and the informant. The case under Section 138 of the NI Act is pending between the parties. Apart from the vague allegation in the statement of the tempo driver, which lacks details, there is no material connecting the applicant to the alleged crime. While it is claimed that the applicant communicated with the tempo driver via phone call, there is no Call Detail Record (CDR) to confirm this communication. Additionally, there is no material on record suggesting that the applicant, after receiving the goods under the alleged fictitious name, delivered them to Delhi. Notably, the offence dates back to 9 June 2023, and the FIR was filed approximately a year later on 3 June 2024. There has been a significant delay in lodging the FIR. The material available on record demonstrates that there were business transactions between the applicant and the informant both before and after the incident. Moreover, the learned APP also acknowledges that

the applicant attended the police station on three occasions, supplied the necessary documents to the investigating agency, and his statement was also recorded.

7. In this backdrop, the custodial interrogation of the applicant is not warranted. The prosecution's apprehension about tampering with the evidence and influencing the witnesses can be addressed by imposing appropriate conditions. Accordingly, the application is allowed in the following terms:

(i) In the event of the applicant's arrest in CR No.289 of 2024 registered at Meghwadi Police Station, Mumbai, he be released on bail on executing a PR bond of Rs.25,000/- with one or more sureties in the like amount.

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

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

8. It is made clear that the above observations are *prima facie* in nature and made only to decide the present application, and the trial Court shall not be influenced by the same during the trial.

9. The application stands disposed of accordingly.

[R.N. Laddha, J.]