

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

Anticipatory Bail Application No.1955 of 2024

Khushboo Devchand Panchal

Age: 33 years, Occ: Service,

Having address at Flat No. A-904,

Sai Suman CHS, Behind Bus Depot

Station Road, Vikhroli East

Mumbai – 400 083

Presently residing at Flat No.59, 3rd Flr,

Odhavram Krupa, Sarojini Naidu Road,

Raghuvanshi Nagar, Mulund,

Mumbai – 400 080

... Applicant

v/s.

State of Maharashtra

Through Senior Inspector of Police

Bhandup Police Station

LBS Marg, Bhandup (W),

Mumbai 400078.

... Respondent

Mr Manish Gala a/w. Nilesh Gala, Minil Shah, Alpa Gala, and
Ankit Shah, i/b. Law Square, for the applicant.

Mr Yogesh Y Dabake, APP, for respondent/ State.

PSI Anil Ghaywat, Bhandup Police Station, is present.

Coram: R.N. Laddha, J.

Date: 15 July 2024

P.C.:

By this application, the applicant seeks pre-arrest bail in
connection with CR No.316 of 2024, registered at Bhandup

Police Station, Mumbai, for offences punishable under Sections 406 and 420, read with 34 of the Indian Penal Code.

2. The prosecution claims that the complainant's company, VSM Weavess India Private Limited (for short, 'VSM'), was engaged in business with Viyanka Impex Private Limited (for short, 'Viyanka'). It is alleged that Viyanka ordered fabrics worth Rs.1,26,08,832/- from VSM but did not make payment. The directors of Viyanka assured repayment by issuing cheques in favour of VSM; however, when presented for encashment, these cheques were dishonoured due to insufficient funds in Viyanka's account. Viyanka's directors and employees are also accused of similarly inducing other businesses to deliver goods and not paying the sale consideration.

3. Mr Manish Gala, the learned Counsel appearing on behalf of the applicant, contends that the applicant was employed at Viyanka as a receptionist from February 2023 to February 2024. Her duties involved attending the reception desk and petty cash. He further contends that the applicant's name was erroneously recorded in the company's records as 'Khushboo Parmar'. According to the learned Counsel, the director of Viyanka, Gaurav Rathi, handled the business transactions with VSM, and the applicant played no role. The learned Counsel asserts the applicant's innocence and submits that the present FIR is an

attempt to recover Viyanka's outstanding dues. The applicant is ready and willing to abide by any conditions set forth by the Court.

4. Mr Yogesh Dabake, the learned Additional Public Prosecutor representing the respondent/ State, submits that the applicant and the co-accused misappropriated Rs.1,26,08,832/-. The cheques delivered for repayment were also dishonoured, and the co-accused did not respond to the complainant's phone calls. The amount was repeatedly withdrawn. The monies are yet to be recovered, and the applicant's custodial interrogation is necessary to ascertain the money trail.

5. After reviewing the records, based on the allegations in the FIR, it appears that VSM negotiated its dealings with Viyanka's director, co-accused Gaurav Rathi. When the fabrics were delivered to Viyanka, and its consideration remained unpaid, the complainant contacted co-accused Gaurav, who delivered cheques to the complainant. These cheques were presented for encashment but were dishonoured. *Prima facie*, except for the accusation that the applicant was present when Viyanka placed the purchase order with VSM, no material is placed on record to link the applicant to the present crime. Notably, the allegations lack details regarding the date of placing the orders against which the consideration remained unpaid, the delivery of the goods, the

handing over of security cheques, its dishonour, and the complainant's communication with the applicant and co-accused, and his visit to Viyanka's office. The dispute appears to be of a civil nature. Considering these circumstances, this Court is inclined to exercise its discretion in favour of the applicant. As a result, the application is allowed in the following terms:

(i) In the event of arrest, the applicant shall be released on bail in CR No.316 of 2024, registered at Bhandup Police Station, Mumbai, on executing a PR Bond of Rs.25,000/- and furnishing one or more sureties in the like amount.

(ii) The applicant shall cooperate with the investigation and report to the concerned Police Station as and when directed.

(iii) The applicant, herself or through any other person, shall not tamper with the evidence or influence any witnesses.

6. The application stands disposed of accordingly.

(R.N. Laddha, J.)