

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

Anticipatory Bail Application No. 2266 of 2024

Vinod Nemichand Sharma
Aged 48 years, Occ. Business,
R/at. House No.08, Near Vilasrao
Deshmukh School, Kalamb Road,
Near 2nd Railway Gate, Latur,
District Latur – 413 512.

...Applicant

Vs.

The State of Maharashtra
At the instance of Narpoli Police Station,
Bhiwandi, District Thane.

...Respondent

Mr Chaudhari M. Mujeebuddin a/w S. K. Atique Ur Rehman, for the
Applicant.

Mr Swapnil Pednekar, APP for the Respondent – State.

Mr Vaibhav Jagdale, for the intervenor/complainant.

Coram: R. N. Laddha, J.

Date: 12 August 2024

P.C.

Heard Mr Chaudhari M. Mujeebuddin, the learned counsel for
the applicant, Mr Swapnil Pednekar, learned Additional Public
Prosecutor representing the respondent/State and Mr Vaibhav Jagdale,
the learned counsel appearing on behalf of intervenor/original
complainant.

2. The applicant is apprehending arrest in C.R. No. 891 of 2023,
registered at Narpoli Police Station, Thane, for the offences punishable
under Sections 406 and 420 read with 34 of the Indian Penal Code.

3. According to the complainant, he deals in the garment business. In 2022, he advertised his business online and was contacted by Harsha Choudhary, proprietor of Fab Enterprises, who also dealt in garments. Harsha Choudhary and his Manager, Raju, placed an order with the complainant's company and received material worth Rs. Rs.69,37,824/- on credit. They paid Rs.13,99,000/- in instalments, gaining the complainant's trust. However, after 26 January 2023, Harsha Choudhary and Raju failed to make further payments despite the complainant's attempts to contact them. The complainant visited their Mumbai office only to find it closed. Alleging cheating, the complainant reported that Choudhary and Raju owed Rs.55,38,824/- for material obtained on credit. The investigation revealed that the complainant also received garments from the complainant but did not make the payments.

4. Mr Chaudhari M. Mujeebuddin, the learned Counsel for the applicant, submits that the dispute originated from the commercial transactions. The FIR allegations suggest the civil nature of the dispute, but they have been intertwined with criminal accusations. The learned Counsel contends that a false complaint was lodged solely to recover the outstanding amount. The applicants are ready and willing to cooperate with the investigation, and all the documents are already in the custody of the investigating agency. After about seven months, the investigating officer, issued notices to the applicant's family members, who had no connection with the alleged crime. The complainant has already initiated legal proceedings against the present applicant under

the provisions of the Negotiable Instruments Act.

5. Mr Swapnil Pednekar, the learned Additional Public Prosecutor, and Mr Vaibhav Jagdale, the learned Counsel for the intervenor/complainant jointly submit that the applicant obtained garment material from the complainant and other companies for more than 4,00,00,000/- on credit and did not make the payments. The investigation is in progress.

6. Upon perusing the records, it appears that the dispute primarily revolves around civil transactions. The complainant has already initiated legal proceedings u/s 138 of the Negotiable Instruments Act against the applicant. The investigation is almost complete. There appears to be a substantial delay in lodging the FIR. The applicant is not named in the FIR. However, in the complainant's supplementary statement, he made accusations against the applicant. The prosecution's apprehension that the applicant may tamper with the evidence and influence the witnesses can be taken care of by imposing appropriate conditions. In this backdrop, the applicant's custodial interrogation is not necessary. Accordingly, the application is allowed. Hence, the following order.

:Order:

- (i) In the event of the applicant's arrest in C.R. No.891 of 2023 registered at Narpoli Police Station, Thane, he shall be released on bail upon 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, himself or through any other person, shall not tamper with the evidence or influence any witnesses.

7. The application stands disposed of.

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