[Corrected as per speaking to minutes order dt.12 August 2024.]

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Anticipatory Bail Application No.3465 of 2023

Kantilal Sadarsingh Purohit
Adult of Bombay, Indian Inhabitant,
Age:38 years, Occ: Business,
R/a 3 floor, Ganesh Tower, Navi
Mumbai, Thane, Vashi,
Maharashtra 400 703.

Vs.

1. The State of Maharashtra
(through Amboli Police Station, Mumbai)

2. IBA Systems India Pvt Ltd.
Through Director Nirbhay Patel
having its office at 501, 5^{th} floor,
Dilap Chamber bldg., Off Veera
Desai Road, Fun Republic Lane,
Andheri (W), Mumbai 400053. ... Respondent.

With
Interim Application No.1212 of 2024
in
Anticipatory Bail Application No.3465 of 2023

IBA Systems India Pvt. Ltd. … Applicant/org.informant.

In the matter between:

Kantilal S. Purohit … Applicant.

Vs.

State of Maharashtra … Respondent.

Mr JS Kini with Aum Kini i/by Sapna Krishnappa for the applicant.
Mr Samarth Morey i/by Shivani Shinde for the intervenor.

Mr Yogesh Y. Dabake, APP for the State.
PSI SR Patil, Amboli Police Station is present.

Coram : R.N.Laddha, J.

Date : 1 August 2024.

P.C. :

Heard Mr JS Kini, the learned Counsel for the applicant, Mr Samarth Morey, learned Counsel for the intervenor and Mr Yogesh Dabake, the learned APP for the State.

2. This is an application for pre-arrest bail filed by the applicant/accused No.2, who is the proprietor of accused No.3, in connection with CR No.664 of 2023, registered at Amboli Police Station, Mumbai, for offences punishable u/s 406, 408, 420, 477-A r/w 34 of IPC.

3. The primary allegation made by the informant that the Senior Accountant, accused No.1, Sweety Purohit, in collusion with the present applicant, made unauthorised payments to the applicant and their company. These payments were allegedly related to instrument purchases the complainant's company did not officially order. As a result, an embezzlement of Rs. 92,41,373/- occurred from the complainant's company accounts. Additionally, the Manager (accused No.1) is accused of admitting to receiving a

10% commission for these activities, falsifying ledger entries, and subsequently returning Rs.7,00,000/- to the complainant company.

4. Mr JS Kini, the learned Counsel for the applicant, asserts that three of the applicant's bank accounts have been frozen, and the funds are secured. The applicant has attended the police station and cooperated with the investigation by providing all the necessary documents. The FIR was registered on 05.09.2023 following a thorough debate and discussion. The applicant is ready and willing to cooperate with the investigation.

5. On the other hand, the learned APP and the learned Counsel for the intervenor, in unison, submit that the co-accused's statement explicitly reveals a conspiracy involving substantial payments without any corresponding delivery of goods. The co-accused has admitted her guilt and has already made a partial payment of Rs.7,00,000/-. Additionally, the learned Counsel for the intervenor highlights that the respondent No.2/company is grappling with a severe cash flow crisis as its defrauded amounts are lying frozen in the applicant's bank accounts. The co-accused (accused No.1) remains at large. The learned Counsel seeks permission to withdraw the frozen amount of Rs.90,01,039/- from the accounts of Shakti Systems and Global Shakti IT India Pvt Ltd., as specified in para four of the interim order dated 16.11.2023

passed by this Court.

6. The FIR explicitly states that the complainant has received Rs.7,00,000/- from the accused No.1. It appears that the amount, which exceeds the embezzlement has been adequately secured. The case relies on documentary evidence, and the documents are in the custody of the investigating agency. The investigation is on the verge of completion. The fact that the co-accused has not yet been arrested can not be a reason to deny anticipatory bail to the applicant. The applicant has been under interim protection since 16.11.2023. Any concerns about the applicant tampering with the prosecution evidence can be addressed by imposing certain conditions. In view of this, the ad-interim relief granted on 16.11.2023 is made absolute on the same terms and conditions, with the additional condition that the applicant shall not leave India without prior permission of the Court. The respondent No.2 can seek appropriate legal remedies to receive the frozen funds.

7. The application and the interim application stand disposed of accordingly.

[R. N. Laddha,J.]