

**IN THE COURT OF SESSIONS FOR GR.MUMBAI AT DINDOSHI
BORIVALI DIVISION, MUMBAI**

ANTICIPATORY BAIL APPLICATION NO.731/2018

(CNR NO. MHCC05-002733-201)

Pranav Deepak Doshi **Applicant.**

V/s.

The State of Maharashtra
(through MIDC police Station) **Respondent.**

Advocate Mr.Jadhav for applicant.

APP Mr.Salunke for State.

**CORAM : HIS HONOUR JUDGE
SHRI A.T.WANKHEDE**

(C.R. No.14)

Date : 17th July 2018.

-ORDER-

1 Applicant is asking for grant of anticipatory bail, in connection with CR no.217/2018 registered with MIDC police station for offences punishable u/s 409 of IPC.

2. According to applicant/accused he has not committed any offence. Hence, in the present case, without there being any direct or indirect nexus with the offence alleged. Entire amount due to the Creditors was fully and finally cleared by returning diamonds by applicant/accused. There is no mens-rea to induce and deliver any property. There is possibility of complainant having payment issues with Creditors on account of which applicant has been made scape goat through present proceeding. Payment issue of Creditors is being given colour of criminal liability. Custody of applicant/accused is not necessary. Hence, prayed for grant of pre-arrest bail.

3. The learned APP opposed the application on the ground that, Informant Company melted jewellery being old model in the market, through which they got about 1208.40 carats of diamonds worth Rs.2,50,00,000/- and gave it to applicant/accused for selling them in the market. But applicant/accused misappropriated same for his own purpose. He sold the said diamonds in the market and cheated Informant/Company. Applicant/accused is habitual to commit such offence and also cheated other Traders of Rs.7,30,00,000/-. He is absconding from the date of registration of offence. Custody of applicant/accused is necessary for the purpose of investigation. Hence, urge to reject the application.

4. Informant Anil Kamble is the employee of 'Gadgil Diamond Pvt. Ltd. Company. They used to purchase diamonds from Diamond Traders through brokers. Applicant/accused was broker of Company since last 4 years and he used to sell diamonds from his M/s Smita Diamonds and many other Companies to the Informant Company. In November Informant Company was intending to sell 1208.40 carrot diamonds in the market through Sunil Jain. They contacted applicant/accused. In all 1208.40 carrot diamonds worth Rs.2,50,00,000/- was received by applicant/accused. Said fact is also ascertained by his employees namely Sachin Raut. Thereafter he has not paid the amount of sold diamonds and he avoided to make payment. It is alleged applicant/accused that being broker and having trust in him, complainant gave diamonds to him, but he misappropriated the same for his own purpose. In lieu of payment, applicant/accused also gave cheque of Rs.2 Crore drawn on IndusInd Bank of Smita Diamond Company and also sent letter to the Company for refund of Rs.2,67,46,841/- . No doubt, in the transaction huge

amount is involved but the fact can not be over looked that applicant/accused has tendered cheque of Rs.2 Crore to the Informant/Company. If that cheque is dishonoured, the Informant Company can very well take action against applicant/accused. Not even that he has also accepted liability of payment of Rs.2,67,46,841/-. Now nothing is to be seized from applicant/accused.

5. Heard learned counsel for applicant and APP. Perused police papers.

6. Learned Advocate for applicant/accused relied on several Judgments of Hon'ble Apex Court, Bombay High Court and other High Courts. The common import of the said judgments is that, breach of every agreement can not lead to conclusion that person who has committed breach of agreement has committed offence of cheating. It is also held that if allegations are of civil nature, accused are entitled for anticipatory bail, if he is not required by the IO for further investigation. In reply filed by the prosecution, except fact that offence is serious no sufficient grounds are shown to seek custody of applicant/accused for the purpose of investigation. Though transaction is of dated 2017, report came to be lodged on 16.3.18. Prima facie custody of applicant/accused do not appears to be necessary for the purpose of investigation. As such applicant/accused has made out prima facie case for grant of pre-arrest bail. Hence, the order.

ORDER

1. Application is allowed.
2. In the event of arrest, applicant/accused Pranav Deepak Doshi be released on bail on his furnishing in P.B. and S.B. of Rs.25,000/- (Rs.Twenty Five Thousand only) with one or two solvent sureties of

equal amount, in connection with C.R.No.217/2018, u/sec.409 of IPC, registered with MIDC police station on following conditions.

(i) The applicant shall co-operate with investigating agency, particularly he shall attend the concerned police station, once in a week i.e. on every Wednesday, in between 11 a.m. to 2 p.m. till filing of chargesheet.

(ii) Applicant shall not tamper with the prosecution witnesses in any manner.

(iii) Applicant shall not commit any such offence similar to which they are accused.

(iv) Applicant shall not leave the Jurisdiction of this Court without prior permission.

(v) Applicant is directed to furnish proper local and native address and contact numbers in the format and in hand written form signed by him, to the police.

(vi) On failure to comply any above mentioned conditions, the prosecution is at liberty to apply for cancellation of Bail.

3. A. B.A. No.731/18 is hereby disposed off accordingly.

Sd/-

17/07/2018

(A. T. Wankhede)
Additional Sessions Judge,
Borivali Division, Dindoshi, Mumbai

Dictated on : 17/07/2018
Transcribed on : 14/08/2018
Signed by HHJ on : 14/08/2018

“CERTIFIED TO BE TRUE AND CORRECT COPY OF the ORIGINAL
SIGNED JUDGEMENT/ORDER.”

Uploaded on:14/08/2018 at:3.05 pm S.G.Steno:Mrs.C.S.Sonawane

Name of the Judge (with Court room no.)	HHJ Shri A.T.Wankhede Court Room no.14
Date of pronouncement of judgment/order:	17/07/2018
Judgment/order signed by P.O. on	14/08/2018
Judgment/order uploaded on	14/08/2018

