

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 21 OF 2016

Rajiv Suryakant Mehta ...Petitioner

Versus

The State of Maharashtra & Anr ...Respondents

- Mr. Subhash Jha i/by Tanmany Malusare, Rajesh Patil a/
w Alka Pandey i/by Law Global for the Petitioner.
- Ms. M.H. Mhatre, APP, for the Respondent – State.

CORAM : PRASANNA B. VARALE &
S.P. TAVADE, JJ.

DATE : FEBRUARY 17, 2022.

PER COURT :

1. Heard learned Counsel for the Petitioner.
2. Learned Counsel for the Petitioner invited our attention to the copy of the report lodged by Respondent No. 2 at L.T. Marg Police Station and submitted that a reference is made to 3 dates where there was certain transactions between the parties namely, delivering jewelry articles worth firstly of Rs. 26,83,269/-, secondly 16,96,870/- and thirdly, 16,86,467/- i.e., total worth is of Rs. 60,66,606/-.
3. On the lodgment of the report against the Petitioner, the investigating agency was set in motion.

In the course of investigation, the investigating agency recorded supplementary statement of Respondent No. 2 and very interestingly, in the supplementary statement dated 14.07.2015, the copy of which is placed on record at page 128, the Respondent No. 2 in clear and unambiguous terms stated that out of the said amount referred in the complaint the Petitioner had paid an amount of Rs. 59,20,000/- by way of the RTGS and cheque, whereas the cash amount of Rs. 76,273/- was paid to Respondent No. 2. The sum total of the said amount is of Rs. 59,96,273/-.

4. Learned Counsel for the Petitioner submits that this necessary details are collected by the investigating agency in the form of statement which is placed on record at page 137 of the Petition. Learned Counsel for the Petitioner then invited our attention to the order passed by the Court below while allowing the application for grant of bail to the Petitioner and submitted that the Petitioner had submitted before the Court that he is ready to pay balance amount to Respondent No. 2.

5. By inviting our attention to the judgment of

the Apex Court in the matter of Vir Prakash Sharma Vs. Anil Kumar Agarwal and Anr¹, learned Counsel for Petitioner submitted that putting the matter by any angle it is more than clear that the transaction between the parties was a business transaction and there was no element of breach of trust at any point of time. Thus, the submission is, the lodgment of the report and the proceedings against the Petitioner are not sustainable. Learned Counsel for Petitioner prayed for interim order on the backdrop that the charge-sheet is filed against the Petitioner and if the Court below proceeds in the matter and any adverse order is passed against the Petitioner, Petitioner would be subjected to serious prejudice and attempt of approaching this Court would be frustrated.

6. In our opinion, learned Counsel for Petitioner made out a case for interim order. Accordingly, the interim order in terms of prayer clause 'b'.

7. Post the Petition for further consideration on **10th March, 2022.**

(S.P. TAVADE, J.)

(PRASANNA B. VARALE, J.)

1 (2007) 7 SCC 373