

**(2003) 11 DEL CK 0109****Delhi High Court****Case No:** Criminal M. (M.) No. 2615 of 2003

Ranjit Tukaram Choudhury

APPELLANT

Vs

State

RESPONDENT

**Date of Decision:** Nov. 20, 2003**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 438
- Penal Code, 1860 (IPC) - Section 120B, 406, 420

**Citation:** (2003) 8 AD 164 : (2003) 108 DLT 689 : (2004) 72 DRJ 459**Hon'ble Judges:** Surinder Kumar Aggarwal, J**Bench:** Single Bench**Advocate:** Ashok Aggarwal, S.K. Sharma and Sanjay Dewan, for the Appellant; Anil Soni, for the Respondent**Final Decision:** Dismissed**Judgement**

S.K. Agarwal, J.

By this petition u/s 438, Cr.P.C. petitioner is seeking anticipatory bail in case FIR No. 68/2003 under Sections 420/406/120-B, IPC, P.S. Connaught Place, New Delhi opposing the bail.

2. Prosecution allegations, in brief, are that petitioner is the Founder Director of M/s. Bombay Bazaar Ltd. In the month of June, 2002 the company advertised for appointment of franchisees and distributors in Delhi, offering them minimum guaranteed return to the extent of Rs. 33,000/- to 75,000/- per month -- The directors of the company, including the petitioner, had dishonest and mala fide intentions right from the beginning; they collected huge sums of money on the basis of their false representations. They did not even open a Bank account in Delhi. A sum of Rs. 1.06 crores was deposited by them in their account at Bombay till 19.8.2002. A Chartered Accountant was appointed to probe their accounts; in his provisional report he has stated that the company collected Rs. 4,66,32,389 /- from

22.8.2002 onwards. The company showed payments of Rs. 4,27,04,435/- to various firms and persons. It further shows that company withdrew Rs. 7,93,500/- in cash [purpose not known]; and Rs 2,29,525/- was transferred for unknown purpose. A sum of Rs. 58,09,800/- has also been shown in the Bank as "Inward clearing".

3. It is further alleged in the status report that there are 16 distributors who had deposited security money ranging from Rs. 5.0 lacs to 10.0 lacs each, and none of them has been given any articles. Out of the 16 distributors, 12 distributors have furnished information which reveals that they deposited with M/s. Bombay Bazaar Ltd., security money of Rs. 70,65,500/- (approx.) and have not received anything against it. The company, thus, cheated the distributors to the tune of about Rs. 1.0 crore and have misappropriated the security amount, which, in fact, was refundable. Annexure "B" to the status report filed by the State details the particulars of these twelve distributors, who invested Rs. 70,65,500/- with petitioner's company M/s. Bombay Bazaar Ltd. and have received nothing in return.

4. Learned Senior Counsel for the petitioner, on the other hand argued that in Annexure "A" to the status report filed by the State, the names of the franchisees mentioned at Serial Nos. 3, 9, 10 and 11 are also repeated at Serial Nos. 15, 25, 28 and 54 in Annexure "B", which is the list of distributors. It is argued that these persons were, in fact, franchisees and could not be distributors; that the status report is incorrect and is liable to be ignored and rejected. It is further submitted that co-accused in the case Vijay Tata, is on transit bail granted from Bangalore and other co-accused persons from Delhi office, who were named in the FIR were arrested and granted regular bail. It is further submitted that petitioner is not named in the FIR, he resigned from Board of Directors on 14.9.2002, which is much prior to the transactions reflected in the annexures to the status report, for which he is not responsible, thus, he is entitled to the relief of anticipatory bail.

5. Learned APP for the State, in rejoinder, argued to the contrary and submitted that a large number of people have been cheated and huge amount of money has been swindled on misrepresentations by the company, of which petitioner is the Founder Director. The investigations are still in progress and custodial interrogation of the petitioner is required to unearth the conspiracy and recover the money which has been misappropriated. It is settled law that custodial interrogation is qualitatively more elicitation-oriented than questioning the suspect having an order of pre-arrest bail, as held by the Apex Court in State Rep. by the C.B.I. Vs. Anil Sharma, .

6. Looking into the nature of allegations and the gravity of offence, particularly para (4) of the status report dated 19.11.2003 and Annexure "B" attached thereto, no case for grant of pre-arrest bail is made out. Dismissed.