

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (ABA) NO.376 OF 2015

Sunil s/o Prabhakarro Talatule, r/o 50, Gokulpeth, Nagpur

-vs-

The State of Maharashtra Thr. PSO Seloo, Dist. Wardha.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri A. S. Mardikar, Senior Advocate with Shri U.P.
Dable, Advocate for applicant.
Smt. R. Deshpande, APP for State.
Shri S.B. Bhoyar, Advocate for Complainants.

CORAM : A.S.CHANDURKAR, J.

DATE : September 04, 2015

The applicant has filed the present application under Section 438 of the Code of Criminal Procedure. On the basis of report dated 20/07/2015 at the instance of some farmers, offence under Section 420 r/w Section 34 of the Indian Penal Code came to be registered. In the complaint it has been stated that after dissolution of the Board of Directors, the Agriculture Produce Market Committee was being looked after by the Administrator since November 2014. During the period from November 2014 to April 2015, about 3500 quintals of cotton was sold to Shrikrushna Ginning Mill of which the applicant is a proprietor. It is further stated that this sale was effected on the directions of the Secretary of the Market Committee/accused No.2. It is then stated that despite selling the cotton in open market and making various demands, the price at which the cotton was sold

was not paid to the farmers. It is also stated that the licence for purchase of cotton was renewed only on 05/05/2015 and some purchases had been made when the license was not in operation.

The applicant apprehending arrest, approached the Sessions Court but said application was rejected and hence the present application.

Shri A. S. Mardikar, learned senior counsel for the applicant submitted that perusal of the report on the basis of which the crime was registered does not make out any offence under Section 420 of the Penal Code. It was submitted that the dispute was of a civil nature and with a view to pressurize the applicant for making the payment, the present report had been lodged. It was stated that though the cotton was sold to the Ginning and Pressing Mill owned by the applicant, on account of some business considerations, the amounts that were due to the applicant were not received and hence the payments could not be made. It is then submitted that there was no intention whatsoever on the part of the applicant to defraud the complainants. It was submitted that various payments were made since Feb 2015 to various complainants prior to lodging of the report. It was therefore submitted that the applicant is entitled to grant of anticipatory bail more so when there was no need of any custodial interrogation.

Smt. R. Deshpande, learned Assistant Public Prosecutor and Shri S. Bhoyar, learned counsel for the complainants opposed the application. It was submitted

that huge amounts were recoverable from the applicant in view of cotton sold by the farmers to the Ginning and Pressing Mill. It was submitted that the sales were effected in collusion with accused No.2 who was the Secretary of Agriculture Produce Market Committee. It was then submitted that there were various breaches committed by the applicant with regard to provisions of the Maharashtra Agriculture Produce Market (Development and Regulation) Act, 1963. No bank-guarantees were furnished. Even the licence issued to the applicant was not operative for some period of time. It is therefore submitted that prima facie offence having been made out, there was no case for grant of anticipatory bail.

Perusal of the documents filed on record prima facie indicate that licence was issued to the applicant in the month of August 2014 which was in force till 31/03/2015. It is subsequently shown to be renewed on 05/05/2015 for the period from 01/04/2015 till 31/03/2016. The breach of provisions of aforesaid Act is not part of the grievance made by the complainants in their report except stating that the licence was renewed on 05/05/2015. In the affidavit dated 26/08/2015, the applicant has furnished a list of payments made to about 39 complainants. The period during which such payments were made are from February 2015 till 13/07/2015 which is prior to lodging of the report.

Considering aforesaid facts, in my view, a case for grant of anticipatory bail has been made out. Same

would be subject to certain conditions. Accordingly following order is passed :

Application is allowed.

In the event of arrest of the applicant Sunil s/o Prabhakarro Talatule in Crime No.100/2015 registered with Police Station, Seloo, Dist. Wardha for the offence punishable under Section 420 R/w Section 34 of the Indian Penal Code, he be released on bail on his furnishing P.R. Bond in the sum of Rs.20,000/- (Rupees Twenty Thousand only) with one solvent surety in the like amount. The applicant shall attend Police Station, Seloo, Dist. Wardha as and when required by the Investigating Officer and shall co-operate with the police during investigation and shall not in any manner tamper with the prosecution evidence.

The applicant shall furnish details of his immovable properties to the Investigating Officer. The applicant shall not alienate his immovable properties till such time the trial Court may direct.

Order accordingly.

JUDGE