

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (ABA) NO. 511 OF 2015

Ramkishore Madanlalji Khandelwal & Ano. VERSUS State of Maharashtra thr PSO PS Kuhi

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S. V. Purohit counsel for the applicants.
Shri M. Ekre APP for the respondent.

CORAM : A. S. CHANDURKAR J.
DATE : OCTOBER 28, 2015.

Present applicants apprehend arrest in respect of Crime No. 03 of 2015 recorded by Police Station Kuhi under provisions of Section 420 read with Section 34 of the Indian Penal Code.

According to First Information Report dated 06.01.2015 a scheme for supplying water to village Mandhal was prepared in the year 2003-04 and same was to be implemented through the Zilla Parishad in the year 2006. An agreement for supplying PVC pipes was entered into between the authorities and applicant no.1. Pursuant thereto PVC pipes came to be duly supplied. It is further stated in the first information report that the pipes supplied were not found to be of appropriate quality and hence communications were issued to the applicants for replacing the same. Though there was guarantee of 10 years from the date of manufacturing, the pipes were not replaced resulting in loss of Rs. 13,00,000/- to the State. On aforesaid basis offence came to be registered.

On behalf of the applicants it is submitted that the

quality of the pipes supplied had been found to be satisfactory as per communication dated 30.06.2009 as well as report dated 11.06.2009 issued by the Central Institute of Plastics Engineering and Technology. It is further submitted that a complaint under provisions of the Consumer Protection Act, 1986 was filed in the year 2013 against present applicants which is pending. It is submitted that the dispute is purely of a civil nature and that ingredients of Section 420 have not been made out. Hence the applicants are entitled for grant of anticipatory bail.

The application is opposed by learned Assistant Public Prosecutor. It is submitted that on the basis of various communications received and reports indicating quality of the PVC pipes it was clear that the present applicants in collusion with two other accused were guilty of having committed an offence punishable under Section 420 of the Penal Code. It was submitted that another complaint vide F. I. R. No. 108 of 2010 was lodged against the applicants with Police Station Tumsar on similar lines. It is, therefore, submitted that as the investigation is not yet completed the application deserves to be rejected.

I have perused the First Information Report and other material collected by the prosecution. Prima facie it appears that the PVC Pipes were supplied in the year 2006 and guarantee of its quality for a period of 10 years was also given from the date of its manufacture. Report of the Secretary of the Water Works and Sanitary Department dated 30.06.2009 indicates that the pipes in question were of the desired quality. Similar certificate is dated 11.06.2009. The material collected subsequently on the basis of certain reports

indicates some variance with the standard that were initially prescribed. Considering the fact that the pipes in question were supplied in the year 2006 and the quality reports received in the year 2009 indicate the level of quality to be satisfactory coupled with the fact that proceedings under Section 12 of the Consumer Protection Act, 1986 seeking damages was already filed in the year 2013, a case for grant of anticipatory bail has been made out.

The apprehension expressed in the reply regarding possibility of applicants not co-operating with the investigation can be taken care of by imposing conditions.

Accordingly following order is passed:

The application is allowed. In case of arrest in Crime No. 03 of 2015 of Police Station Kuhi registered under Section 420 read with Section 34 of the Penal Code, applicants are directed to be released on furnishing PR bond of Rs. 25,000/- each with one surety each in the like amount.

Applicants shall cooperate with the investigation of aforesaid crime and they shall not leave the limits of Nagpur District without intimating the Investigation Officer till the filing of charge sheet. Applicants shall attend Police Station Kuhi as and when directed by the Investigating Officer. They shall not tamper with the material collected by the prosecution or try to influence any witnesses. In case of breach of any aforesaid conditions, it would be open for the respondent to move the Court for appropriate reliefs. Application stands disposed of. Hamdast granted.

JUDGE