

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 1092 OF 2016

Shri. Sahebrao Hiranman Nikam (Patil),
Age: 58 years, Occ: Service, Teacher,
R/o. 33, Shri Durva Housing Society,
Ambad, Nasik, Dist. Nasik.

...Applicant

versus

The State of Maharashtra
Through in charge Police Station Officer,
Dhule Taluka Police Station,
Dist. Dhule & anr.

...Respondents

.....
Mr. M.H. Patil, Advocate for applicant
Mr. S.P. Sonpawale, A.P.P. for respondents
.....

CORAM : N.W. SAMBRE, J.

DATE : 29th FEBRUARY, 2016

ORAL ORDER :

The applicant is seeking pre-arrest bail in Crime No. 276 of 2013 registered on 20/09/2013 with Dhule Taluka Police Station, District Dhule for the offence punishable under Sections 406, 420 read with Section 34 of Indian Penal Code.

2. The case of prosecution is that the applicant alongwith his real brothers purchased cotton from various farmers on credit and the monetary dues, which were payable to such farmers towards consideration of cotton purchased by them, was not paid resulting

into registration of offence.

3. Learned Counsel for the applicant would urge that the applicant is a public servant and working as Assistant Teacher and Controller of Examination. He would then urge that the applicant held landed property and is very much available for investigation and shall not run away from prosecution. He would then submit that the fact about commission of offence in 2013 and non filing of charge sheet in the matter till today depicts non involvement of applicant, particularly when no proceedings under Section 82 of Code of Criminal Procedure are initiated against him declaring him absconding.

4. Learned A.P.P. opposed the application on the ground that the applicant alongwith other accused persons in a calculated manner have played fraud on farmers, by not paying monetary dues towards consideration of cotton purchased by them from various farmers. He would then urge that the fact about non co-operation of the applicant in the investigation is writ large as the first information report came to be registered on 20/09/2013, wherein his real brothers are accused and pendency of present case against him, which is under investigation was well within his knowledge and as such, prayed for rejection of the application.

5. After the matter was heard for some time, learned Counsel for the applicant prayed for keep back the matter so as to enable him to take instructions whether the applicant is ready and willing to deposit the amount which is payable to the farmers, which was due towards consideration of cotton purchased by them, which has resulted into registration of the offence.

6. When the matter was called out for second time, without making any statement on the above issue, the applicant tried to prevail upon the Court to protect him on merits.

7. Considered the investigation papers and role attributed to the applicant in crime in question. In my opinion, learned A.P.P. was right in pointing out that the applicant alongwith his real brothers have played fraud on poor farmers by assuring payment of their consideration amount towards cotton purchased by them on credit and have not paid the same to the farmers. Fact of such non payment has affected the annual financial planning of poor farmers. Failure to receive payment by the farmers, particularly from the famine affected area, prompt them to take recourse to other mode for their survival like obtaining loan by mortgaging land to private money lenders, suicide etc.

9. Apart from above, the claim that the charge sheet is not filed since 2013 is no way helpful to the applicant as the fact about registration of crime and investigation thereof is well within knowledge of the applicant, as his real brothers are accused in the crime and have obtained regular bail.

10. In my opinion, the conduct of applicant as a public servant of indulging in the criminal act of duping poor farmers needs to be dealt with iron hand.

11. In the back ground of above, no case for grant of pre-arrest bail is made out. The application fails, stands rejected.

12. Before parting, it will be appropriate to direct that the fact of non filing of the charge sheet be brought to the notice of Superintendent of Police, Dhule, who shall issue appropriate instructions upon perusal of the investigation papers in the matter.

[N.W. SAMBRE, J.]