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

CRIMINAL APPLICATION NO.1134 OF 2016

Angad s/o Sahebrao Jadhav

..APPLICANT

VERSUS

The State of Maharashtra & anr.

..RESPONDENTS

Mr G.G. Kadam, Advocate for applicant;
Mr S.Y. Mahajan, Addl. Public Prosecutor for respondent no.1

CORAM : N.W. SAMBRE, J.

DATE : 5th July, 2016

ORAL ORDER :

The applicant is complainant in C.R. No.397 of 2015, registered with Satara police station, Aurangabad, for offences punishable under sections 420, 406 and 507 of the Indian Penal Code, in regard to the event which has occurred between 29th September, 2011 and 7th December, 2015. The offence came to be registered on 14th December, 2015.

2. The applicant – complainant alleged that he is an office bearer of a public trust, which had advanced an amount of Rs.4 Lacks on or about 29th September, 2011 to respondent no.2 – accused, for holding a training programme for tribal students, which was not honoured by him, resulting into registration of the crime in question.

(2)

3. Respondent no.2 – accused, as such approached learned Additional Sessions Judge, Aurangabad, seeking pre-arrest bail under section 438 of the Code of Criminal Procedure, which came to be allowed by an order dated 15th January, 2016. It is this order of which cancellation is sought by the applicant.

4. Mr Kadam, learned Counsel appearing on behalf of the applicant-complainant would submit that cancellation of bail is sought on merits as there is sufficient material to depict involvement of respondent no.2 in the crime in question, as the amount was received by him by cheque from the institution of the applicant, which in turn was received by the institution from the Government Exchequer towards grant-in-aid for upliftment of tribal students. According to him, respondent no.2 had not conducted the training programme and as such the applicant herein was required to make alternate arrangement, resulting into casting additional financial burden on the trust. It is evident that the cheque issued by respondent no.2 to the applicant was not honoured. He would then submit that the Court below has not appreciated the above aspect of the matter and has ordered release of respondent no.2 on pre-arrest bail. He would then submit that custodial interrogation of the applicant, in the given set of facts, is required to be appreciated. Apart therefrom, he would submit that non-cognizable offence has been registered against respondent no.2 – accused punishable under sections 504 and 506 of the Indian Penal Code on 20th January, 2016. He would then urge that since respondent no.2 has jumped the conditions of bail, the bail granted to him needs to be cancelled.

(3)

5. Learned Addl. Public Prosecutor supports the submissions made on behalf of the applicant.

6. Having bestowed my thoughts to the submissions made, it is required to be noted that the cheque that was issued by respondent no.2 was dishonoured and there is an appropriate remedy available to the applicant under the provisions of the Negotiable Instruments Act. The transaction in question between the parties hereto is contractual in nature and civil remedy is provided therefor. Apart therefrom, learned Additional Sessions Judge, while granting bail, has exercised discretion in favour of respondent no.2 – accused and in my opinion, said exercise of discretion cannot be termed to be in excess of the powers conferred.

7. It is then to be noted that the Court below has already subjected respondent no.2 to conditions and flouting of the same will be taken into account in an appropriate case. So far as registration of non-cognizable offence is concerned, in my opinion, even therefor, the applicant has appropriate remedy. In view thereof, no case for cancellation of bail is made out. Thus, Criminal Application fails and stands rejected.

(N.W. SAMBRE, J.)

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