

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

Criminal Application No. 3879 of 2016

District : Beed

1. Rajendra s/o. Babulal Agrawal,
Age : 54 years,
Occupation : Business.
2. Ankush s/o. Rajendra Agrawal,
Age : 28 years,
Occupation : Business.
3. Anup s/o. Rajendra Agrawal,
Age : 23 years,
Occupation : Business.

All R/o. : 3, Prakash Nagar,
Bramhakundi Road, Dhar,
Taluka and District : Dhar
(Madhya Pradesh).

.. Applicants.

versus

The State of Maharashtra,
Through Police Inspector,
City Police Station,
Parli-Vaijanath,
Taluka : Parli-Vaijanath,
District : Beed.

.. Respondent.

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Mr. A.B. Kharosekar, Advocate, for applicants.

*Mr. A.S. Shinde, Addl. Public Prosecutor, for
the respondent.*

*Mr. Ruchir S. Wani, Advocate, holding for
Mr. A.S. Bajaj, Advocate, for the original
complainant.*

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CORAM : A.M. BADAR, J.

DATE : 4TH OCTOBER 2016

ORAL ORDER:

Applicants / accused in Crime No. 114/2016 registered with Parli-Vaijnath City Police Station, District Beed, for offences punishable under Sections 420, 406, 409 and 120B of the Indian Penal Code, by this application, are seeking pre-arrest bail.

2. Heard the learned Counsel appearing for applicants / accused. He argued that as per directions of this Court, applicants have already deposited an amount of Rs. 25,00,000/- in this Court and they are further willing to deposit an amount of Rs. 15,00,000/- with this Court. The learned Counsel drew my attention to the document filed with his affidavit at Exhibit A-1 (page 5) and contended that subsequently the informant had changed the amount to Rs. 40,00,000/-. The learned Counsel argued that in other cases, Soyabean has been seized and in both matters, this Court has granted stay and he has settled one matter.

3. The learned Addl. Public Prosecutor opposed the application and contended that by adopting same modus operandi, applicants have cheated several traders and my attention is drawn to two FIRs lodged against present applicants with similar allegations.

4. The learned Counsel appearing for the informant argued that element of criminality is seen from modus operandi adopted by applicants in getting delivery of goods with paltry payment and then in not paying the balance amount to various traders.

5. Perused the FIR lodged by Kantaprasad s/o. Balaprasad Zanwar on 05.04.2016. According to the prosecution case, applicants had been to Parli-Vaijnath and contacted the informant. They allured the informant to send Soyabean worth Rs. 1,45,35,259/- to their firm on the pretext of purchasing the same. However, paltry payment of Rs. 69,95,210/- was made and balance amount of Rs. 75,40,049/- is not paid despite repeated demands. It is further averred that when the informant had been to the place of applicants at District Dhar in Madhya Pradesh, applicants have driven them out by saying that no amount will be paid to them.

6. Normally, the transaction appears to be a commercial transaction without any element of criminality attached to it. However, my attention is drawn for the FIR in Crime No. 146/2015 registered at Udgir City Police Station against present applicants by informant Baban s/o. Devrao Haibatpure. This informant has also alleged that the applicants had purchased Soyabean costing Rs. 2,12,18,861/- by paying paltry sum of Rs. 50,00,000/- and assuring balance payment. However, the balance payment is not made by applicants. Another FIR in Crime No.

217/2015 is lodged against applicants by Bhagwan s/o. Pandurang Bhansali at Police Station, Ambajogai. The informant therein has alleged that on the pretext of purchase, delivery of Soyabean costing Rs. 3,92,90,061/- was taken by applicants by paying paltry sum of Rs. 1,76,28,654/- and balance amount is never paid to them. This modus operandi, as seen from the documentary evidence, prima facie depict element of cheating since inception as well as breach of trust by applicants. Deposit of some amount by them before this Court will, at the most, be useful for showing leniency in the event of conviction in the crime in question. However, for effective investigation of the crime in question, custodial interrogation of applicants, who appears to have been indulged in rampant cheating of several persons, is necessary.

7. The Application is accordingly rejected.

8. At this stage, the learned Counsel for applicants makes an oral prayer for stay of this order for a period of four weeks. As the matter is heard on merit and applicants are not found to be entitled for any relief, the prayer so made is rejected.

(A.M. BADAR)
JUDGE

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