Dusane

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPEALLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2064 OF 2016

Mr. Sivanesh Sounder	...	Applicant/ Accused
Vs.		
The State of Maharashtra	...	Respondent Complainant

Ms. S.S. Kaushik, A.P.P. for the Respondent – State.

CORAM : N.W. SAMBRE, J.

DATED : 16TH DECEMBER, 2016.

P.C. :

1 The matter is placed on the board for speaking to the minutes of the order dtd. 30th November, 2016 in order to correct the Crime Number. The learned APP points out that in the first paragraph of the order, the Crime No.194 of 2015 is required to be typed instead of Crime No.198 of 2015. The correction in the order be carried out and the order be read accordingly.

(N.W. SAMBRE, J.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPEALLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2064 OF 2016

Sivanesh Sounder .. Applicant
Versus
The State of Maharashtra .. Respondent

Mr. T.J. Pandian, Advocate for the Applicant.
Mr. N.B. Patil, A.P.P. for the Respondent – State.

CORAM : N.W. SAMBRE, J.

DATED : 30th NOVEMBER, 2016.

P.C. :

1 The applicant is seeking pre-arrest bail in Crime No. **194** of 2015 registered on 12.08.2015 for the offences punishable under sections 420, 406, r/w. 34 of the I.P.C.

2 The case of the prosecution against the applicant is that the applicant was a director in a Company which has entered into an agreement for supply of green peas and has accepted consideration thereof. It is further claimed that though the goods were accepted, the amount was not paid.

3 As such the offence of cheating and breach of trust.

4 The learned counsel for the applicant while trying to make out the case for grant of pre-arrest bail would submit that even if presuming

that the applicant is a director of the accused company, still the fact remains that he was nominal director and not beneficiary of the illegal transaction which is formed to be basis for registration of the crime. According to him, he has co-operated the Investigating Officer and entire documents in relation to crime are with the investigating agency.

5 The learned A.P.P. submits that the main accused in the present crime is absconding. It is also brought to the notice of this Court that the applicant was an active director of the Company who knowing fully well, participated in the transaction and has cheated the complainant.

6 Having considered the rival submissions it is worth to mention here that once having admitted that the applicant was one of the director of the Company who has cheated the complainant, and in the transaction there was active participation of the applicant, there is sufficient material to infer the involvement of the applicant in the crime of cheating and criminal breach of trust.

7 The offence has an economic colour which is to be viewed seriously, no case is made out. The application is rejected.

(N.W. SAMBRE, J.)

Corrected pursuant to speaking to the minutes on 16th December, 2016

Waghmare