

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

Criminal Application No. 01429 of 2017

District : Aurangabad

Pramod Kumar Sing,
Age : 41 years,
Occupation : Business,
Managing director,
Lizza Consumer Goods Pvt. Ltd.,
R/o. Mandar Complex, D/104,
Evershine City, Gokhware,
Taluka Vasai, Dist. Thane. .. Applicant.

versus

The State of Maharashtra,
through Police Inspector,
Begumpura Police Station,
Aurangabad. .. Non-applicant.

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*Mr. N.R. Thorat, Advocate, holding for
Mr. B.A. Chavan, Advocate, for the applicant.*

*Mr. R.V. Dasalkar, Addl. Public Prosecutor, for
the non-applicant.*

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CORAM : T.V. NALWADE, J.

DATE : 03RD APRIL 2017

ORAL ORDER :

By the present application, the applicant is seeking pre-arrest bail in connection with Crime No. 0182/2016 registered with Begumpura Police Station, District Aurangabad, for offences punishable under Sections 420 and 406 of the Indian Penal Code.

02. Both the sides are heard.

03. The aforesaid crime is registered against the applicant on the basis of report of Laikh Rafiyoddin Patel. It is the case of the complainant that the present applicant promised to the complainant that he will supply some goods, consumable items, which are being manufactured by a Company where present applicant is working as Managing Director and due to his representation, one agreement was executed. Allegation is made, that due to the promise given by the present applicant to supply consumable items, amount of Rs. 2,50,000/- was paid by the complainant and out of this amount, amount of \$Rs. 2,00,000/- was paid by RTGS mode and remaining amount was given in cash in the presence of witnesses. It is contended that though the amount was paid on 05.05.2015, goods were not supplied and when the complainant insisted, present applicant gave two cheques but drawn on account of others. It is contended that those cheques bounced and then the complainant realized that he was deceived.

04. This Court has gone through the contents of the FIR and the papers of investigation. There are statements of witnesses who are saying that the amount was paid in their presence. Present applicant is also not disputing that he has received the said amount. Along with the present proceedings, one photo-copy of the bill is produced to show that on

04.04.2015, consumables were supplied which were worth Rs. 1,79,928/-. When this Court asked learned Advocate for the applicant to show any record showing receipt of the goods by the complainant, there was no reply from the applicant's side to this query. Further, when the amount was paid by the complainant subsequently, it does not appear probable that goods were supplied earlier in point of time as there was no such agreement and the amount was to be paid first.

05. Learned Advocate for the applicant then submitted that the dispute is of civil nature and at the most, the complainant can go to Civil Court for recovery of the amount but criminal action cannot lie. This submission cannot be accepted. Now-a-days, instances are noticed by the Courts, that many businessmen come from outside station like Mumbai, Thane, etc. They make such agreement with the persons from District like Aurangabad. They take away money and they do not supply the goods. Thus, apparently, in such cases, intention to deceive right at the inception can be inferred. In such cases, custodial interrogation is must and such instances cannot be called as pure civil disputes.

06. Learned Advocate for the applicant has placed reliance on a judgment of Division Bench of this Court at Panaji Bench, in the case of **Mr. T. Chandramouli Vs. Police Inspector, Vasco Police Station & another** [2017 All M.R.(Cri.) 17]. The facts and

circumstances of each case are always different.

07. From the facts and circumstances of the present case, it is not possible to infer, at this stage, that the dispute is of pure civil nature. If there was supply of material, one would not have given again cheques for the aforesaid amount. Further attempt being made to show that the goods were supplied and these circumstances certainly go against the present applicant.

08. In the result, the Application fails and the said is rejected.

(T.V. Nalawade)
JUDGE

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