

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

Criminal Application No. 01488 of 2017

District : Aurangabad

Shahid Shafiq Bagwan,
Age about 28 years,
Occupation : Fruit Seller,
R/o. Kaisar Colony,
Lane No.5, Aurangabad,
District Aurangabad.

.. Applicant.

versus

The State of Maharashtra,
Through Police Station Officer,
Jinsi Police Station,
Aurangabad, Dist. Aurangabad.

.. Non-applicant.

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Mr. R.B. Narwade Patil, Advocate, for the applicant.

*Mr. S.D. Ghayal, Addl. Public Prosecutor, for the
non-applicant.*

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CORAM : T.V. NALAWADE, J.

DATE : 06TH APRIL 2017

ORAL ORDER :

By the present application, the applicant is seeking pre-arrest bail in connection with Crime No. 041/2017 registered with Jinsi Police Station, District Aurangabad, for offences punishable under Sections 420, 417, 418, 323, 506 read with Section 34 of the Indian Penal Code.

02. Both the sides are heard. Perused the papers of investigation which are made available by the learned Addl. Public Prosecutor for perusal of the Court.

03. The crime is registered on the basis of one Naushaba w/o. Mushraf Husen, resident of Kalni Khajuri, Varanasi Cantonment, Uttar Pradesh. She does the business of selling garments online. It is her case that on 03.11.2016, on mobile numbers given by her, she was contacted by the applicant and she was asked to make delivery of clothes and sarees worth Rs. 9.22,000/-. She dispatched the goods by J.D. Transport during the period 16.11.2016 to 03.12.2016. She has contended that she had talked with the present applicant and she was given the mobile number which was in use of the present applicant. The applicant told the complainant on mobile phone, that he would pay money within 15 days as there was demonetization. She waited for some period and on 27.01.2017, she came to Aurangabad at applicant's residence. But the applicant was not found at his residence. Thereafter she went to another place of applicant's residence, where she met with applicant's mother. The applicant's mother asked her as to why she had come. The applicant's mother abused her, assaulted her and gave threat to her life, if the complainant would demand money. Thereafter the complainant lodged report with Police Station.

04. In the Police papers, there is record of invoices and also the transport receipts showing that the goods were dispatched through one agency by name, Fast Air Services, Varanasi. There is record like visiting card of the applicant and there are other particulars. This record is more than sufficient to infer that there is truth in the allegations made by the complainant against the applicant. If the applicant did not know the complainant in the past, there was no reason for her to make false allegations and to have aforesaid record of the applicant. The conduct of the applicant denying the transaction itself indicates that there was intention of the applicant to deceive the complainant.

05. Learned Advocate for the applicant has relied upon judgment of the Hon'ble Apex Court delivered in **Criminal Appeal No. 2128 of 2011** (*International Advanced Research Centre For Powder Metallurgy & New Materials (ARCI) & others Vs. Nimra Cerglass Technics (P) Ltd. & another*), on 22nd September 2015. The facts of the reported case were different.

06. In the case in hand, there was intention of the applicant to deceive the complainant since inception and dispute is not of civil nature. Property involved in the crime needs to be recovered and thorough investigation of the crime is required. Therefore, this is not a fit case to grant pre-arrest bail.

07. In the result, the Application is rejected.

(T.V. Nalawade)
JUDGE

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