

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

CRIMINAL APPLICATION NO. 1969 OF 2017

1. Pandharinath s/o Dattarao Kadam, ... **Applicants**
Age 42 years, Occu: Business,
2. Dattarao s/o Bapurao Kadam
Age 68 years, Occu: Business
Both r/o New Mondha, Parbhani,
Taluka and Dist. Parbhani

VERSUS

The State of Maharashtra ... **Respondent**
Through Kotwali Police Station,
Parhani, Dist. Parbhani

Mr. Mangesh R. Jadhav, Advocate for the applicants
Mr. S. J. Salgare, APP for the State.

CORAM : K. L. WADANE, J.

DATE : 16th June, 2017

ORDER:

1. Heard Mr. Jadhav, learned counsel for the applicant and Mr. Salgare, learned APP for the State.
2. Present Criminal Application is filed under section 438 of the Code of Criminal Procedure for grant of anticipatory bail in connection with Crime No. 116/2017, registered with Kotwali Police Station, Parbhani for the offences punishable under sections 403, 406, 409, 420 read with section 34 of the Indian Penal Code, 1860.

3. It is submitted by Mr. Jadhav, the learned counsel for the applicant that the informant/complainant was having one transport vehicle bearing Registration No. MH-22-AA1992. He was working as Transporter and Distributor of the goods of the applicants to the retail sellers of the villages surrounding to the District Parbhani. The informant purchased goods to the tune of Rs.2,10,270/- from the applicants and issued a cheque for payment of the same. The cheque issued by the informant came to be dishonoured. The applicants to initiated proceeding under section 138 of the Negotiable Instruments Act against the informant. The learned Judicial Magistrate, First Class, Prbhani issued process against the informant. It is further contended that in order to avoid payment of the applicants, the informant filed a complaint bearing Criminal M. A. No.90/2017 before the Judicial Magistrate, First Class, Parbhani on 23.03.2017, wherein directions under section 156(3) of the Criminal Procedure code are issued and the aforesaid offence came to be registered against the applicants.

4. From the record, it appears that after issuance of cheque in favour of the present applicants, the

complainant has filed the criminal complaint. During the course of argument, learned counsel for the applicants submitted that the complainant had issued only one cheque. However, from the report of the Investigating officer, it reveals that, as per say of the complainant, the complainant has issued in all five cheques to the applicants and four cheques are still in custody of the present applicants. Learned counsel for the applicants, on instructions, states that no such cheques are in possession of the applicants. In view of the statement made by the learned counsel for the applicants, possibility of misuse of the cheques allegedly issued in favour of the applicants is ruled out. Therefore, question of recovery of cheques from the applicants does not arise.

5. Looking to the record, it appears there is dispute between the applicants and the complainant about recovery of some amount from the informant, for which the applicants have already approached the criminal court against the informant.

6. In view of the above circumstance, I am of the opinion that custodial interrogation of the applicants

is not needed and therefore, the applicants can be enlarged on anticipatory bail. Hence following order:

O R D E R

- i. In the event of arrest of the applicants in connection with Crime No. 116/2017, registered with Kotwali Police Station, Parbhani, they shall be released on bail on their executing P.R. Bond of Rs. 15,000/- [Rs. Fifteen thousand only] each, with one solvent surety in the like amount.
- ii. Criminal application disposed of.

(K. L. WADANE, J.)

JPC