

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

919 CRIMINAL APPLICATION NO. 2171 OF 2017

BALU PUNDLIK SALI
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. M. S. Deshmukh, h/f Mr. Anudeep D. Sonar.
APP for Respondent : Mr. K. N. Lokhande.

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CORAM : **K. L. WADANE, J.**
DATE : 14th June, 2017.

P.C.:

. This is an application for anticipatory bail in connection with Crime No.38 of 2017, registered with Yawal Police Station, Taluka Yawal, District Jalgaon for the offences punishable under Sections 406, 417 and 420 read with 34 of the Indian Penal Code and under Sections 6 and 46 of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963.

2 On 3rd April, 2017 the Chairman and the Secretary of the APMC, Yawal lodged a complaint to the Police Station Yawal stating that the present Applicant purchased Bananas from various agriculturists in the area of market committee Satod and Kolwad and the same was without the licence issued by the APMC. It is further alleged that the

Applicant was doing such illegal business without payment of the requisite fees to the APMC. The Complainant had issued notice to the Applicant that he has not given account of his purchase and sale of Bananas, which he has purchased from various agriculturists.

3 Heard the learned counsel for Applicant and the learned APP.

4 According to the learned counsel for Applicant the dispute between the Complainant, agriculturists and the present Applicant is of civil nature. If at all the Applicant was doing his business in contravention of the provisions of the APMC Act and he failed to pay certain amount due from Applicant towards APMC then as per the provisions of Section 57 of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963, particularly sub-Section (2) the Market Committee can recover any charges, costs, expenses, fees, rent or any other account under the provisions of this Act and any rule or bye-law made thereunder shall be recoverable from the person from whom such sum is due, in the same manner as an arrear of land revenue.

5 Mr. M. S. Deshmukh, learned counsel for Applicant further submits that none of the agriculturists have not filed FIR against the

Applicant for commission of the cognizable and non-bailable offence till this date. The learned APP appearing for the State points out the contents of the statement of one of the witness namely Hiralal Sawale, who states that in the month of April 2016, the present Applicant and a person by name Jayant Phirke, who was working with him met him and demanded and purchased Bananas worth Rs.1,89,249/- out of which the Applicant paid an amount of Rs.1,00,000/- through the bank and still he has not paid the remaining amount of Rs.89,249/-. Subsequently, the Applicant avoided to pay the remaining amount and lastly he refused the transaction. Looking to the contents of the statements of other agriculturists / witnesses, it is seen that similar allegations are made. Thus, looking to the nature of allegations, it appears that the dispute between the parties is of civil nature. If at all the agriculturists are aggrieved by the act of the Applicant, they can very well initiate criminal or civil proceedings against the Applicant. However, the Complainant has no authority to lodge the criminal complaint for and on behalf of the agriculturists. Without police custody of the Applicant, the investigating officer can very well investigate the matter. Therefore, looking to the nature of allegations, the Applicant can be enlarged on anticipatory bail. Hence, the following order:

ORDER

- I) In the event of arrest of the Applicant in connection with Crime No.38 of 2017, registered with Yawal Police Station, Taluka Yawal, District Jalgaon, he be released on bail on furnishing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one surety in the like amount.
- II) The Accused / Applicant shall not tamper with the evidence of prosecution in any manner and shall cooperate in further investigation.
- III) Criminal application stands disposed of.

[K. L. WADANE, J.]

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