

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

Criminal Application No. 03214 of 2016

District : Jalgaon

The State of Maharashtra,
Through Police Inspector,
Police Station, Amalner,
District Jalgaon.

.. Applicant
(Original complainant)

versus

Dipak Sukdeo Patil,
Age : 26 years,
Occupation : Agriculture,
R/o. 11/A, Gajanan Colony,
Near Water Tank, Amalner,
Taluka Amalner,
District Jalgaon.

.. Non-applicant
(Original accused)

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*Mr. V.S. Badakh, Addl. Public Prosecutor, for
the applicant.*

Mr. S.S. Rathi, Advocate, for the non-applicant.

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CORAM : T.V. NALWADE, J.

DATE : 20TH MARCH 2017

ORAL ORDER :

By the present application, the applicant - State of Maharashtra is seeking cancellation of pre-arrest bail granted to the non-applicant herein, by order passed on 02.12.2015 by the Addl. Sessions Judge, Amalner, in Criminal Bail Application No. 202/2015. Similar prayer for cancellation of pre-arrest bail is rejected by the Additional Sessions

Judge by order passed on 04.04.2016 in Criminal Misc. Application No. 08/2015.

02. It appears that the charge-sheet is also filed against the present non-applicant for offences punishable under Sections 406, 408, 409 and 506 of the Indian Penal code.

03. The allegations made in the FIR shows that the complainant was using the certificate of D.Pharm. of one Sheetal Prakash Mahajan and he had entered into an agreement with said Sheetal Mahajan for use of that certificate for running medical shop. Accused - non-applicant Dipak Patil was engaged in the said shop by the complainant. Allegations are made that the non-applicant Dipak Patil was expected to maintain account and give details of account to the complainant. But the non-applicant Dipak Patil was evading to give details of account on one pretext or the other. Ultimately the complainant verified the account for the period from 17.09.2013 to 01.10.2015 and noticed that there was misappropriation of Rs. 9,00,000/-. The complainant has contended that he considered the amount paid as salary to the non-applicant and total expenditure of Rs. 15,00,000/- and there was sale worth Rs. 24,00,000/-. As Dipak did not return the amount, the report was given and crime was registered. It was subsequently found that the non-applicant had misappropriated an amount of Rs. 4,95,623/-.

04. In view of the nature of allegations, this Court perused the statement of Sheetal Prakash Mahajan and also so called agreement which was entered into by the complainant with said Sheetal Mahajan. Sheetal Mahajan was to make entries in computer. There is statement of Sheetal Mahajan that the son of the complainant, who was running the hospital, used to collect the medicines from the shop but he was not crediting the amount and there was possibility of discrepancy. It can be said that only the complainant feels that he is cheated by the accused. It can further be said that the complainant will be required to prove the so called fraud on the basis of account and the nature of allegations show that the complainant himself is not clear about the accounts maintained during relevant period. Said Sheetal Mahajan has contended that the complainant was asking the non-applicant Dipak Patil to run the shop by giving monthly amount to him and Deepak Patil was not ready.

05. In view of the above and as the charge-sheet is filed, it will not be appropriate to cancel the relief of pre-arrest bail granted in favour of the non-applicant herein by the Sessions Court.

06. In the result, the Application is rejected.

(T.V. Nalawade)
JUDGE

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