

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO.789/2016

Manmohan S/o Nemichand Rathi and others

..Vs..

State of Maharashtra, through P.S.O., P.S. Hiwarkhed, Tah. Telhara, Distt.
Akola

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri J.M. Gandhi, Advocate for the applicants.
Shri M.J. Khan, A.P.P. for the respondent / State.

CORAM : Z.A.HAQ, J.

DATE : 9.6.2017.

Heard.

The applicants have sought pre-arrest bail in crime registered against them for the offence punishable under Sections 471, 420, 409 and 120-B of the Indian Penal Code. The accusations against the applicants are that the applicants had given cheques for the value of Rs.94,000/- and Rs.1,03,000/- towards balance payment of groundnut purchased by them from the complainant and other agriculturists and these cheques were dishonoured. It is alleged that the applicants cheated the complainant and it is their *modus operandi* to pay part of the amount for purchasing the agricultural produce and give cheques to the agriculturists for the balance amount which cheques are not honoured.

The learned Advocate for the applicants has submitted that the cheques are misused by the complainant, that the cheques were not given to discharge legally enforceable debt or liability and the cheques were obtained by the complainant as security when the applicants had taken hand loan of Rs.10,000/-. It is submitted that the proceedings under Section 138 of the Negotiable Instruments Act are already initiated and are pending. It is further submitted that the allegations made against the applicants do not constitute an offence and the dispute is of civil nature.

This Court has granted interim protection to the applicants by order passed on 2nd December, 2016. The non-applicant has not made any complaint that the applicants have misused the interim protection granted to them by this Court.

Considering the facts of the case and the nature of accusations, in my view, the interim order granted by this Court is required to be confirmed, however, on modified conditions.

Hence, the following order:

(i) In the event of arrest in Crime No.198/2016 registered by the non-applicant, the applicants be released on bail on furnishing cash security of Rs.30,000/- (Rs. Thirty Thousand) each and one solvent surety in the like amount for each of the applicant.

(ii) The cash security and the solvent surety as directed by this order shall be furnished by the applicants before the learned Magistrate on the date on which case

papers would be submitted.

(iii) The application is **allowed** in the above terms.

JUDGE

Tambaskar.