

Rane

1/5 ABA-1976-2018 (SR.21)
19.12.2018

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1976 OF 2018

Gopichand Prakash Gadakh

...Applicant

V/s.

The State of Maharashtra

...Respondent

ALONGWITH

INTERVENTION APPLICATION NO. 1336 OF 2018

IN

ANTICIPATORY BAIL APPLICATION NO. 1976 OF 2018

Ajit Lahanu Patil

....Intervenor

IN THE MATTER BETWEEN :

Gopichand Prakash Gadakh

....Applicant

V/s.

State of Maharashtra

....Respondent

* * * * *

Mr. Rameshwar N. Gite, Advocate for the applicant.

Ms. Reshma, j. Metha for Intervenor in APPP-1336-2018.

Mr. A.D. Khamkhedkar, APP for the State.

PSI B.Y. Chaudhary, Pimpalgaon Barwant Police Station.

Coram : Sandeep K. Shinde, J.

Wednesday, 19th December, 2018.

P.C. :

1. This is an application under Section 438 of Criminal

Procedure Code. The applicant is apprehending arrest in Crime No.I-134 of 2018 registered at Pimpalgaon Police Station, Nashik.

2. Heard learned Counsel for the applicant and learned APP for the State. Also heard the learned Counsel for the Intervenor in Intervention Application No. 1336 of 2018. Intervenor is the complainant.

3. The applicant is a trader in agricultural produce since 2013. He was supplying the agricultural produce to Shrinathji Agro Food Private Limited Company Ltd. Its office is at Mumbai. The applicant herein was working with the said Shrinathji Agro Food Private Limited Company. It is alleged that the complainant had supplied agricultural produce to the said company and in consideration thereof, the Company had issued a cheque in the sum of Rs.4,61,41,935/- to the complainant. The cheque was dishonoured since the Account was closed by the said drawer. The cheque was dishonoured on 3rd August, 2018. Thereafter, on 20th July, 2018 this complaint was filed and crime has been registered against the Company, its Directors, Secretary and the present applicant.

4. It is contended by the learned Counsel for the applicant that the complainant was supplying the agricultural produce to the Company since 2013 and there were continuous transactions with that Company. It is his contention that, if the amount is not paid by the Company, though he may be working for the said Company, he can't be held liable for the same.

5. On the other hand, the learned Counsel for the Intervenor submitted that the applicant was the main person at whose instance the agricultural produce was supplied by the complainant to the said Company. It is further submitted that since the other accused are absconding, it may not be possible to trace the whereabouts of the remaining accused unless this applicant is committed to custody. It is therefore submitted that the application be rejected.

6. I have gone through the complaint. Admittedly, the cheque issued by the aforesaid Company was dishonoured on 3rd August, 2018 and the complaint was lodged on 20th August, 2018. It is not the case of the complainant that, the subject cheque was issued against the sole transaction. The

complaint itself shows that, the complainant had business transactions with the said Company since 2013. Therefore, it cannot be said that the applicant had induced the complainant to supply the goods with intention to cause wrongful loss to him.

7. The learned APP has submitted that the other accused are absconding, however, it is possible to trace their whereabouts if the applicant co-operates and hand over his cell phone to the Investigating Officer. The learned Counsel for the applicant has agreed and undertakes on behalf of the applicant to handover the cell phone of the applicant to the Investigating Officer. Thus, considering the facts of the case, in my view, case is made out for granting this application and hence the following order :

(I) The application is allowed.

(ii) In the event of the arrest of the applicant, he is directed to be released on bail on executing P.R. Bond of Rs.75,000/- with one or more sureties in the like amount.

(iii) The applicant shall furnish his present and permanent address to the Investigating

Officer in writing including his contact number.

(iv) The applicant shall handover his cell phone to the Investigating Officer on 21st December, 2018 at 11.00 a.m. The Investigating Officer shall return the cell phone to the applicant on/or before 31st January, 2018. The applicant shall attend Pimpalgaon Police Station, Nashik commencing from the week of 24th December, 2018 on every Monday and Friday i.e. twice a week between 11 to 1 pm.

(v) The applicant shall not tamper the prosecution witness and co-operate with the Investigating Officer.

(vi) With the aforesaid directions, the application is disposed of.

(SANDEEP K. SHINDE, J)