

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 2266 OF 2017

Navnath Zodage. ... Applicant.

Versus

The State of Maharashtra. ... Respondent.

Mr. Nishigandh N. Patil, advocate for Applicant.

Ms. S.S. Kaushik, APP for State.

Mr. N.B. Sawkar, Constable Deoli Police Station, Nashik (Gramin).

**CORAM : SMT.SADHANA S. JADHAV,J
DATE : JANUARY 12, 2018**

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State.

2 This is an application under section 438 of the Code of Criminal Procedure, 1973. The applicant herein is apprehending his arrest in Crime No. 107 of 2010 registered at Deoli Police Station on

21/8/2017 for offence punishable under section 406. 420 read with 34 of the Indian Penal Code.

3 It is the case of the prosecution that on 21/8/2017 Anil Deore resident of Deoli lodged a report at the police station alleging therein that he is an agriculturist. That he is acquainted with Purshottam Mahale who is an agent for sale of onions. On 12/8/2017 Purshottam Mahale called upon the first informant and they informed him that S.S. International Enterprises Agro Commodities Export and Import company at Sanpada, Mumbai have requisitioned onions. It was agreed that first informant would sell the onion at the rate of Rs. 26.80ps. per K.G. It was agreed that the amount would be transferred in the account of the complainant. The first informant was also informed by Purshottam Mahale that the order is placed by one Ankit and Yogesh Gorde who had office at Juinagar Railway Station, Sanpada, Mumbai. The first informant had transported 118 tons of onion. The said onions were unloaded at the given address. However, the agriculturist/informant had not received the payment.

Upon persuasion, Purshottam Mahale had informed that Ankit and Yogesh are giving evasive answers. On 18/8/2017 first informant alongwith Purshottam Mahale had been to the office and there they found only two bags of onions. Ankit had sent a message that he will make payment within 2 days. However, he had not made the said payment. Finally, on 21/8/2017 the first informant has lodged report.

4 The learned Counsel for the applicant submits that the present applicant is Navnath Zodage, whereas the allegations in the first information report are against Ankit and Yogesh Gorde.

5 Perused the papers of investigation. It appears from the record that the first informant had deputed his nephew Bhushan Ahire, resident of Govandi, Mumbai to verify the address of Ankit. He had been to the office. He had met the said person. Said Ankit had taken Dilip Ahire to the godown and had shown that he is the owner of the godown. Dilip had further stated that on that day while returning

from the godown they did not have cash amount and therefore, they had stopped at one ATM where Ankit had withdrawn money to make payment of taxi. The investigating agency then recorded the statement of the brother-in-law of the present applicant Akash Kamble who had disclosed to the police that his sister is married to the present applicant. That he intermittently visits Dubai. Brother-in-law namely Akash Kamble was shown CCTV footage dated 14/8/2017. Upon seeing the said CCTV footage, he has identified Ankit as Navnath Zodage and has disclosed that he happens to be his brother-in-law. It is pertinent to note that when Dilip Ahire and complainant had been to the said office, the office was closed and upon enquiry, they had learnt that the said office was taken on rent only for a period of 10 days. Dilip Ahire was shown the godown only to mislead him.

6 It is in these circumstances that the applicant does not deserve discretionary relief under section 438 of the Code of Criminal Procedure, 1973. The application being sans merits stands rejected.

7 However, it is made clear that the observations made hereinabove are prima facie in nature and restricted to the application under section 438 of the Code of Criminal Procedure, 1973. The trial court shall not be influenced at the time of trial.

8 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)