

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

CRIMINAL BAIL APPLICATION NO. 1041 OF 2019

Ravindra Kulkarni @ Ravindra M. Dhekane Applicant
Versus
The State of Maharashtra Respondent

- Mr. Bharat Gadhavi a/w. Tejesh Dande a/w. Vishal Navale I/b. Tejesh Dande & Associates for Applicant.
- Mr. S. H. Yadav, APP for the State/Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 29th AUGUST, 2019**

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.504/16 registered with Chaturshrungi Police Station, under sections 406 and 420 of the Indian Penal Code.

2. The FIR is lodged by one Atul Khopde on 18/11/2016. It is mentioned in the FIR that he was having a shop by name Yogiraj Electrical and Electronics. He was selling LED TV, washing machine, Air conditioner etc. In November 2015 he got acquainted with the present applicant and the applicant started doing business

with the informant. Initially goods were taken by the applicant and amount was properly paid within time and thus, informant started trusting him. Thereafter, the applicant started taking more appliances and since 16/01/2016 he had taken appliances worth Rs.2,69,60,112/-. Thereafter, the amount was never paid by the applicant and on that basis the FIR is lodged. On the basis of this FIR the applicant was arrested on 08/03/2017 and since then he is in custody.

3. Heard Shri. Bharat Gadhavi, learned counsel for the applicant and Shri. S. H. Yadav, learned APP for the State.

4. Learned counsel for the applicant submitted that the applicant had purchased those appliances from the informant and further sold to his customers, however, the orders were cancelled and there were no purchasers for many appliances. The applicant, therefore, had to sell those appliances at lower price. He further submitted that it is a pure business loss and the dispute, if at all, would be a civil dispute. There was no dishonest intention and the applicant has not misappropriated either appliances or money.

5. Shri. Jadhav, learned APP opposed the bail application

on the ground that the offence is clearly made out. The amount involved is more than two crores and the applicant should have made every payment.

6. I have considered all these submissions. I have perused the charge-sheet. Investigation is already over and charge-sheet contains statements of applicant's customers i.e. Deepak Khandelwal and Rizwan Shaikh. They have stated that they had purchased the appliances like LED TV etc. from Rajendra Bokil to whom the applicant's customer had sold LED TV, so that was a chain and ultimately amount did not come back to the applicant.

7. The investigation does not show that anything was recovered at the instance of the present applicant. No appliances were recovered at his instance, neither any amount was recovered. Therefore, it is difficult to observe at this stage that the amount was misappropriated by the present applicant. There is considerable force in the submission of learned counsel for the applicant that there was no dishonest intention on the part of the present applicant when he had purchased the appliances from the first informant, therefore, offence of cheating is not made out.

8. All these issues will have to be decided during the trial, however, trial is not likely to start in the near future. The applicant is in custody since 08/03/2017. The remedy to approach civil court is open to the informant. However, no civil proceeding for damages is filed. In view of this matter, further custody of the applicant will not serve any purpose. The applicant does not have criminal antecedents, therefore, I am inclined to grant the bail considering the period undergone in custody. Under section 420 of the IPC the maximum punishment provided is seven years.

9. Hence, the following order :

ORDER

- (i) In connection with C.R. No.I 504 of 2016 registered with Chaturshrungi Police Station, the applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)