

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

**CRIMINAL BAIL APPLICATION NO.2328 OF 2019**

Deepak Dnyandev Bhosale & Anr. ...Applicants

V/s

The State of Maharashtra ...Respondent

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Sumant Deshpande for the applicants.

Geeta P Mulekar APP for the State/Respondent.

(I.O.) - PSI - Mr. Eknath T. Bhoir, Economic Offences Wing,  
Nashik.

**CORAM : PRAKASH D. NAIK, J.**

**DATE : 3<sup>rd</sup> JANUARY, 2020**

**PC :**

1. The applicants are accused in connection with CR. No. 66 of 2017 registered with Pimpalgaon Police Station, Nashik for offences punishable under Sections 420, 504, 506 r/w. 34 of Indian Penal Code, 1860 ('IPC' for short). The First Information Report ('FIR' for short) was lodged on 10.05.2017. The investigation was transferred to EOW, Nashik. Subsequently, Sections 409, 465, 467, 468, 120(B) were added. The applicants were arrested on 13.09.2018. The co-accused Dnyandev Bhosale was arrested on 14.09.2018. Eight other accused were arrested.

2. The FIR was lodged by Rajendra Dattatray Boraste

alleging that he conducts business of cold storage by name 'Saco Fruits'. He provides cold storage facilities for preserving grapes to the businessman on rental basis. In 2011, the complainant was approached by applicants and represented that they are involved in the business of exporting grapes to foreign countries and also import the goods from foreign countries. They are holding license for conducting such business. The complainant was taken into confidence by giving rosy picture of their business. The accused also informed the complainant that they intend to purchase grapes from Nashik District for the purpose to export. In view of that it was necessary to store the grapes in cold storage and to export the same by packing. The complainant agreed to allow the applicants to let out the cold storage facilities to them. They also executed agreement. The accused also paid the rent to the complainant. In 2013, the accused again approached complainant for cold storage facilities for grapes. The complainant agreed for the same in view of the earlier transactions. Agreement was executed on 18.02.2013. Thereafter, the accused purchased grapes from various farmers and stored the same in the cold storage facilities of the complainant, thereafter exported them through their

container. Several persons were supervising, the work of storage on behalf of the D. P. Sales Corporation from 18.02.2013 to 24.04.2013. The rent and the cost towards the same was Rs. 88,19,987/-. The accused issued several cheques in favour of complainant towards storage and cost. Some of the cheques were honored. Part payment was also made through RTGS. The complainant received amount of Rs. 37 Lakhs. The cheque dated 25.03.2013 for amount of Rs. 10 lakhs was dishonored. The complainant was deceived for an amount of Rs. 51,19,987/-. The accused also executed transactions with the parents of the complainant for purchasing grapes. The cheques issued in their favour were dishonored. It was alleged that the accused had also deceived farmers. They had also floated companies abroad and cases were registered against them.

3. The applicants and the co-accused Dnyandev Bhosale (Father of applicants) had preferred an application for Anticipatory Bail which were rejected. The applicants and the co-accused thereafter, preferred Special Leave Petition Bearing No. 7226 of 2017 before the Supreme Court seeking Anticipatory Bail by order dated 22.09.2018. The petition was allowed. It was directed that upon furnishing

bail bond to the satisfaction of the trial Court within one week, the petitioners therein be granted bail subject to appropriate conditions. Subsequently, MA. No. 1480 of 2017 was preferred for recalling the order dated 22.09.2017. However, by order dated 14.09.2017, the Hon'ble Apex Court observed that there is no ground to interfere with the order dated 22.09.2017 passed by the Court. In view of the order passed by the Hon'ble Supreme Court the applicants and Co-accused Dnyandev Krishnaji Bhosale preferred an application before the Court at JMFC at Pimpalgaon for releasing him on bail bonds to the satisfaction of the Court subject to appropriate conditions. The learned JMFC by order dated 27.09.2017 directed that the applicants be released on bail on executing PB and SB of Rs. 50,000/- each. They were also directed to deposit cash security of Rs. 15,000/- each, in addition to surety bond. It was further directed that the applicants should not temper the prosecution evidence and witnesses. They should co-operate with the investigating officer for investigation of alleged crime. The applicants and co-accused should attend Pimpalgaon police station every 10<sup>th</sup> day of each month between 11.00 a.m. to 5.00 p.m. till filling of charge-sheet or till further order whichever is

earlier.

4. The prosecution preferred an application for cancellation of bail granted to the applicants before the court of learned JMFC, Pimpalgaon. On 16.07.2018 the learned Magistrate issued notice to the accused. The application for cancellation of bail was heard by the court. The grievance of the investigating machinery was that the accused neither came before the police station nor cooperated in the investigation and due to their absence investigation is pending. The learned Magistrate by order dated 24.08.2018 allowed the said application, on the ground that due to absence of applicants investigation is pending. It was further observed that the applicants have not fulfilled the conditions of bail and notices were issued to the accused for their presence. However, they did not secure their presence. They had avoided their appearance before the Investigating Agency. The bail order was cancelled and non-bailable-warrant was issued against applicants.

5. The applicants had preferred an application for cancellation of non-bailable-warrant on 28.08.2018. In the

said application, it was contended that the the surety of the applicants have preferred an application for withdrawing their surety bond and notice in regard to their issued by the Court. In pursuance to withdrawal of surety bond, the prosecution had preferred an application for cancellation of bail. It was also contended that the applicants are willing to furnish fresh surety bond. They are willing to abide by the conditions. By order dated 11.09.2018 the Court rejected the application preferred by the applicants.

6. The applicants were taken into custody on 13.09.2018. The applicants thereafter preferred an application for bail before the Sessions Court. The said application was rejected by the Sessions Court by order dated 14.03.2019.

7. The learned Advocate for applicants submitted that the bail was cancelled on the ground that the applicants had not attended police station as directed by the Sessions Court. It is further submitted that there is delay in lodging the FIR. The applicants had executed the bail bond in pursuant to the order passed by the Apex Court and thereafter by the trial Court, however, the sureties had preferred an application for withdrawal of surety bond. It is

further submitted that in pursuant to the grant of bail to the applicants, similar FIR were registered against the applicants and they apprehended their arrest in the event they attend the police station. It is submitted that the applicants are in custody from 13.09.2018. The applicants are willing to abide by the conditions.

8. Learned APP submitted that the applicants had deceived the farmers and the complainant. The cold storage facilities charges of the first informant were not paid. The applicants had not abided the conditions of reporting and had not co-operated with the investigation. Huge amount is involved in the transaction executed by the applicants. Several cases were registered against the applicants. Some of the cases are similar CR. No. I-22 of 2018 was registered with Dindori Police Station for offences punishable under Sections 406, 407, 408, 409, 420, 465, 468, 471, 120(B) r/w. 34 of IPC. CR No. I-09 of 2018 was registered with Ozar Police Station, Nashik for the offences punishable under Sections 406, 409, 420, 465, 467, 468, 471, 120(B) r/w. 34 of IPC. CR. No. I-32 of 2018 was registered with Pimpalgaon Police Station, Nashik for the offences punishable under Sections 409, 420, 120(B), 504,

506 r/w. 34 of IPC. It is submitted that the accused misappropriated huge amount in all these cases.

9. The transaction in question spelt out in the complaint was in respect of cold storage charges, due to first informant. The impugned transaction was executed vide agreement dated 18.02.2013 and the period of transaction was 18.02.2013 and 24.04.2013. The applicants had allegedly used cold storage of the informant. The accused had paid an amount of Rs. 37 lakhs. According to complainant the balance amount of Rs. 51,91,987/- was not paid to the complainant. The investigation is completed and charge-sheet is filed. It is pertinent to note that the applicants were granted bail by the Apex Court upon furnishing bail bonds to the satisfaction of the trial Court. It is also noted that the said order was confirmed by the Apex Court on 14.12.2017. The applicants preferred an application before the trial Court in the light of direction by the Apex Court. The applicants were directed to be released on bail on certain terms and conditions. The bail sought to be cancelled on the ground that the applicants did not attend the police station as directed by the trial Court. The condition No. (iv) reflected in bail order passed

by the trial Court in that accused should attend Pimpalgaon police station every 10<sup>th</sup> day of each month between 11.00 a.m. to 5.00 p.m. till filling of charge-sheet or till further order whichever is earlier. The bail was cancelled for non-complying the same condition. The applicants is in custody since more than a year. As stated above the charge-sheet is already filed. In these circumstances, further detention of the applicants are not called for. Nothing is brought on record about any prosecution launched against applicants abroad. The applicants had also sought bail in CR. No. I-22/2018, I-09/2018 and I-32/2018 vide BA No. 1659/2019, BA No. 1299/2019 and BA No. 1160/2019.

10. In the aforesaid circumstances, I passed the following order.

### **ORDER**

- (i) Bail Application No. 2328 of 2019, is allowed;
- (ii) The applicants are directed to be released on bail in connection with C.R. No. 66 of 2017, registered with Pimpalgao Police Station, Nashik, on his furnishing P.R. Bond in the sum of Rs.25,000/-, each with one or more sureties in the like amount;

- (iii) The applicants shall not tamper with the prosecution evidence and witnesses;
- (iv) The applicants shall attend trial court regularly on date of hearing of case, unless exempted by Court.
- (iv) Bail Application stands disposed of accordingly.

**(PRAKASH D. NAIK, J.)**