

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

CRIMINAL APPLICATION (ABA) NO.55 OF 2020

(Mr. Santosh s/o Mohanlal Khandelwal ..vs.. State of Maharashtra, through PSO, PS City Kotwali,
Akola)

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

Court's or Judge's orders

Shri A.C. Dharmadhikari, Counsel for the applicant,
Shri V.A. Thakre, Addl.PP for the non-applicant.

CORAM : ROHIT B. DEO, J.

DATED : 25-02-2020

The applicant is apprehending arrest in connection with Crime 14/2020 registered at Police Station City Kotwali, Akola for offences punishable under Sections 420 and 409 read with Section 34 of the Indian Penal Code.

2. Vide order dated 28-1-2020 this Court (Coram : Manish Pitale, J.) granted *ad interim* relief.

3. Shri A.C. Dharmadhikari, learned Counsel would submit that the dispute between the informant and the applicant is essentially civil in nature and that the criminal law is set in motion as a pressurise tactic. Shri A.C. Dharmadhikari would submit that a futile attempt was made by the informant to persuade the police to register an offence. The police did not do so since the dispute was perceived as essentially civil in nature. The informant, therefore, preferred an application under

Section 156(3) of the Criminal Procedure Code and pursuant to the directions to investigate issued by the learned Magistrate, first information report is registered on 16-1-2020.

4. The alleged offence occurred between 31-12-2016 and 06-1-2017. It is not in dispute that the applicant is a commission agent for supply of sugar and that there were regular business relations between the applicant and the informant. It is further not in serious dispute that the informant Ramani Enterprises transferred various amounts to the current account of the applicant. According to the applicant, after deducting the commission, the said amount was transferred to Shambhu Mahadev Sugar and Allied Industries Limited, Usmanabad through Meghan Sales. The applicant contends that the sugar factory could not supply sugar since it faced action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act.

5. The applicant then approached the Aurangabad Bench of this Court in Writ Petition 13756/2018 seeking direction to release the stock of sugar or refund of the amount, which petition is still pending. It is during the pendency of the petition before the Aurangabad Bench that the informant has lodged the report.

6. Considering the material on record, I am satisfied that the dispute is purely civil in nature and the colour of criminality is infused only to pressurise the applicant into refunding the amount.

7. In this view of the matter, the application is allowed.

8. In the event of arrest in Crime 14/2020 registered at Police Station City Kotwali, Akola the applicant shall be released on furnishing personal bond of Rs.25,000/- with one solvent surety of like amount.

9. The applicant shall attend Police Station City Kotwali, Akola once in two weeks on Monday till the filing of the charge-sheet and shall cooperate with the Investigating Officer.

JUDGE

adgokar