

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO. 249 OF 2021

Manoj s/o Atmaram Bhagat,
Age 50 years, Occ. Agriculture,
R/o. Katri, Tq. Kallam, Dist.
Yeotmal.

... **Applicant.**

VERSUS

The State of Maharashtra,
Through The Police Station Officer,
Mahur Police Station, District
Nanded. .

... **Respondent.**

...

Advocate for the Applicant : Mr. Kamble Shirish M and Pattebahadur
Sachin W.

APP for the Respondent/State : Mrs. R. P. Gaur.

WITH

ANTICIPATORY BAIL APPLICATION NO. 97 OF 2021

1) Ashok s/o Namdevrao Waghmare,
Age 33 years, Occ. Labour,
R/o. Daheli, Tq. Kinwat, Dist.
Nanded.

2) Devanand s/o Bhaurao Bhujade,
Age 45 years, Occ. Labour,
R/o. Katri, Tq. Kallam, Dist.
Yavatmala.

... **Applicants.**

VERSUS

The State of Maharashtra,
Through Police Inspector,
Police Station Mahur, Tq.
Mahur, Dist. Nanded.

... **Respondent.**

...

Advocate for the Applicants : Mr. Gadegaonkar Bharat N.
APP for the Respondent/State : Mrs. R.P. Gaur.

CORAM : MANGESH S. PATIL, J.
DATE : 26.04.2021.

PER COURT :

These are the applications for anticipatory bail by different persons apprehending arrest in connection with Crime No. 182/2020, registered with Mahur Police Station, District Nanded, for the offences punishable under Section 420, 264, 265, 266 read with Section 34 of the Indian Penal Code and under Section 26 of Weights and Measurements Act.

2. Sum and substance of the allegations are to the effect that all the applicants who are the traders in cotton had gone to the village by manipulating their electronic weighing machines and purchased cotton from various farmers including the informant. By resorting to manipulation they were paid for a lesser quantity than what they actually sold. Accused No. 1 Pradeep was arrested. A weighing machine was recovered from him which turned out to be tampered with. It is being alleged that the farmers were lured by offering more price than that was prevalent in the market. It is in this manner that the farmers are now being alleged to have been cheated by the applicants.

3. Learned advocates for the applicants submit that the applicants are being falsely implicated merely by resorting to some unverified facts and based on some subjective inference. It is only from accused No. 1 Pradeep that a weighing machine has been recovered to whom the informant had sold cotton. So far as the present applicants are concerned they are stated to have purchased cotton from various other farmers. The transaction of the applicants with these farmers are independent of the transaction between the informant and the accused No. 1 Pradeep and no inference can be drawn that even the weighing machines of the applicants were tampered with. There is no reasonable basis to draw any such inference. They are

businessmen and would be put to disrepute if they are arrested without assurance of bail.

4. The learned A.P.P. would strongly oppose both the applications. She would submit that all the accused had simultaneously, by sharing common intention had gone to the village and have purchased cotton from various farmers by similarly tampering the electronic weighing machine they were carrying. Already the electronic machine used by the co-accused Pradeep has been recovered and has been found to be tampered with. There is a specific report to that effect. There are several farmers who have stated to have sold cotton to the applicants and in all probability, even the applicants must have indulged in similar illegal and criminal activity. They have cheated poor farmers. Their custodial interrogation is necessary to recover the excess cotton and to recover the tampered machines.

5. I have carefully gone through the papers of the investigation. So far as the role attributable to co-accused Pradeep Atmaram Bhagat is concerned, the informant comes with a specific allegation that on the earlier day he had got cotton harvested by him, weighed and it was weighing eight quantals whereas on the scale used by the co-accused Pradeep it weighed barely six quantals and 36 kg. This seems to have triggered reaction of a sort wherein every farmer now carries same perception about having been similarly cheated by the present applicants. Conspicuously, farmers Rajesh Bhimrao Jaybhaye, Datta Jagga Marape, Raju Bhimrao Parchake, whose statements have been recorded under Section 161 of the Code of Criminal Procedure have not come with any specific version, similar to what has been alleged in the F.I.R., that the cotton they had sold to the applicants was actually weighing more than what they were paid for as a price. It is not their version that it was weighing more than that.

6. Hypothetically, one cannot comprehend as to how the Investigating Officer would now be able to reach any conclusion based on some objective

material even to say that these farmers were possessing more cotton than what was purchased from them by these applicants much less its specifications and the quantum.

7. It is in view of such peculiar state of affairs, merely because the informant alleges that all the applicants had simultaneously purchased cotton from various farmers from the village around the same time and merely because one of these purchasers was having a weighing machine which turned out to be tampered with, there is no objective material to *prima facie* infer that even the applicants had indulged in the same act.

8. In the facts and circumstances, the applications deserve to be allowed.

7. The Applications are allowed. In the event of arrest of the applicants in connection with Crime No. 182/2020, registered with Mahur Police Station, District Nanded, for the offences punishable under Section 420, 264, 265, 266 read with Section 34 of the Indian Penal Code and under Section 26 of Weights and Measurements Act , they shall be released on bail on their executing personal recognizance for an amount of Rs. 15,000/- each and furnishing a solvent surety in the like amount each , subject to following conditions :

(a) They shall attend the concerned police station as and when called by the Investigating Officer and shall cooperate him.

(b) They shall not tamper the evidence or influence the witnesses.

(MANGESH S. PATIL, J.)

mkd/-