IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.512 OF 2021

1. Altamash Sayyed Haroon Patve
2. Sayyed Haroon Ajij Patve
3. Faizal Sayyed Haroon Patve … APPLICANTS

VERSUS

The State of Maharashtra … RESPONDENT

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Mrs. Rashmi S. Kulkarni, Advocate for applicants
Shri S.J. Salgare, A.P.P. for respondent State.

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CORAM : R. G. AVACHAT, J.
(VACATION COURT)

DATE : 28th MAY, 2021

O R D E R :

This is an application for bail under Section 438 of the Code of Criminal Procedure. The applicants apprehend arrest in connection with Crime No.200/2021, registered at M.I.D.C. Police Station, Jalgaon for the offence punishable under Sections 406, 409, 420, 504, 506 read with Section 34 of the Indian Penal Code.

2. Heard. Perused the First Information Report

(F.I.R.) and the relevant police papers. The F.I.R. has been lodged by a businesswoman, resident of village Khurja, District Bulandshahar in Uttar Pradesh. The informant and her family members are the manufacturers of crockery. The applicants have a crockery shop at Jalgaon. In November 2020, the applicant No.1 contacted the informant on cell phone and placed the order for crockery for sale. The informant, therefore, deputed her Munim to verify whether the applicant and his family members were really dealing in crockery. After having verified the said fact, crockery worth Rs.1,07,574/- was supplied to the applicants in November 2020. Again on 15/1/2021, the applicants were supplied crockery worth Rs.2,52,694/-. The applicants, however, did not pay any amount towards the price of the crockery purchased. The informant and her family members, therefore, repeatedly made phone calls to the applicants. The calls went unanswered. Ultimately, on 4/4/2021, the informant and her husband came to Jalgaon. The applicants were present in their shop. Instead of paying the amount, the applicants abused the informant and her husband and gave threats of dire consequences. The F.I.R., therefore, came to be lodged alleging therein that the applicants had since inception of the transaction, dishonest intention not to pay.

They are also alleged to have committed offence of criminal breach of trust.

3. Learned counsel for the applicants would submit that, it is a civil dispute. A false F.I.R. has been filed with a view to recover price of the goods allegedly sold. The applicants offered to deposit cost of the goods.

4. Learned A.P.P. would, on the other hand, urged for rejection of the application.

5. After having considered the F.I.R., I refrain myself from observing whether it is a case of civil transaction or ingredients of the alleged offence are prima facie made out. The applicants on their own offered to deposit the amount said to be due. Thereupon, no custodial interrogation of the applicants would be required. I am, therefore, inclined to grant the application in terms of the following order :

O R D E R

(i) The application is allowed. In the event of arrest of the applicants in connection with Crime No.200/2021, registered at M.I.D.C. Police Station, Jalgaon for the offence punishable under Sections 406, 409, 420, 504, 506 read with Section 34 of the Indian Penal Code, the applicants shall be released on bail on his executing P.R. bond in the sum of Rs.15,000/- (Rupees fifteen thousand) each with one surety in the like amount.

(ii) The applicants shall appear before the investigating officer as and when required. The applicants shall not tamper with the prosecution evidence.

(iii) The applicants shall deposit amount of Rs.3,61,000/- (Rupees three lakhs sixty one thousand) in the trial Court within a period of two weeks. In the event of failure to deposit the amount within the stipulated period, the order granting anticipatory bail shall stand automatically vacated without further reference to the Court.

(iv) In case of acquittal of the applicants and/or failure of the informant or family members to recover the dues in civil proceedings, if any, the amount shall be paid back to the applicants. The trial Court would also be at liberty to decide the application, if any, moved by the informant for withdrawal of the amount.

(R. G. AVACHAT)
JUDGE

fmp/-