

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

ANTICIPATORY BAIL APPLICATION NO. 1025 OF 2021

Nilesh Sudhakar Mahajan ... **Applicant**
Age 28 years, Occu: Student,
R/o Adgaon, Erandol
Tq. Erandol, Dist. Jalgaon

VERSUS

The State of Maharashtra, ... **Respondent**
Through Bhadgaon Police Station,
Tq. Bhadgaon, Dist. Jalgaon

Mr. Sagar S. Chitre & Vijay B Patil Advocates for the applicant,
Mr. S. B. Narwade, A.P.P. for the State.

CORAM : PRAKASH D. NAIK, J.

DATE : 25th October, 2021

ORDER:

1. The first information report was registered on 23.07.2021 with Bhadgaon Police Station, District Jalgaon vide Crime No.166/2021 for the offences punishable under Sections 406, 409, 420 read 34 of the Indian Penal Code.

2. It is alleged that complainant is cultivating cotton. Several other villagers/farmers are also cultivating cotton. Every year, businessmen from other places visit complainant's village for purchasing cotton. In 2019-20, cotton was sold at the rate of Rs.5000 to Rs.5200/- per quintal to Sudhakar Gangaram Mahajan. Sudhakar Mahajan and his partners Kailash Mahajan, Shivaji Mahajan, Rakesh Mahajan, Nilesh

Sudhakar Mahajan (Applicant) were involved in purchasing cotton from complainant and various other persons. Mr. Sukhdeo Mahajan, Shivaji Mahajan, Rakesh Mahajan and Nilesh Mahajan were involved in weighing the cotton. The complainant was paid an amount of Rs.30,520/- by cash. It was agreed that balance amount of Rs.2,43,000/- would be paid to him after the transaction was completed. The accused had also purchased cotton from other farmers. Payment was to be made subsequently. In spite of demanding the consideration towards sale of cotton, the accused avoided to make the payment. Sudhakar Mahajan executed a bond on Stamp paper of Rs.100/- on 25.11.2020 that he would pay Rs.17,40,500/-. Cheque was given by accused in the name of complainant. The cheque was dishonoured when it was presented with the Bank by the complainant. Hence the first information was registered for the aforesaid offences.

3. Learned Advocate for the applicant submitted that Sudhakar Mahajan who has been arrested in this case is father of the applicant. Rakesh Mahajan who is brother of the applicant is also arrested. Both of them are in custody. Two other accused namely Kailash Mahajan and Shivaji Mahajan were granted anticipatory bail by the Sessions Court on 06.08.2021. Bond for clearing the dues was executed by the father of the applicant. Cheque was issued from the account of Rakesh Mahajan.

4. Learned A.P.P. submitted that the complainant is not the only aggrieved person but there are several other persons who were deceived by the accused. The applicant was acting in connivance with co-accused. Statements of the witnesses who had parted the cotton show involvement of the applicant. Huge loss is caused to the farmers. Custodial interrogation of the applicant is necessary.

5. Grievance of the complainant is that the accused had induced him to sell cotton and the payment in respect to sale was not made. Similarly, cotton was also purchased from other persons in the village and payment to them was also not made. Total defalcation is to the tune of Rs.22,86,000/-. The applicant has participated in the offence.

6. I have perused the documents on record. The father of the applicant and Rakesh Mahajan who is brother of the applicant were arrested and they are in custody. The tenor of the first information report and other documents would indicate that prime role is attributed to the arrested accused. Bond was executed allegedly by the father of the applicant and cheque towards consideration was issued by the arrested accused Rakesh Mahajan. Father and brother of the applicant are both in custody. Other accused Kailash Mahajan and Shivaji Mahajan were granted anticipatory bail.

7. Considering the factual aspects of the matter, the custodial interrogation of the applicant is not warranted and case for allowing the application is made out. Hence, I pass the following order :-

ORDER

- i. Anticipatory Bail Application No. 1025/2021 of is allowed;
 - ii. In the event of arrest of the applicant in Crime No.166/2021 registered with Bhadgaon Police Station, District Jalgaon, the applicant be released on bail on executing PR bond in the sum of Rs. 25,000/- with one or more sureties in the like amount;
 - iii. The applicant shall attend the investigating officer on 28th, 29th and 30th October, 2021 between 11.00 a.m. to 1.00 noon and thereafter as and when called for.
8. Anticipatory Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)

JPC