

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.2 OF 2022

VINAY RATNAKAR MACHAVE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. S. S. Chapalgaonkar
APP for Respondent-State : Mr. N. T. Bhagat
Advocate for Assist to APP : Mr. R. P. Patwardhan

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**WITH
CRIMINAL APPLICATION NO.307 OF 2022**

KIRAN SHANTILAL BOTHARA
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. R. P. Patwardhan
APP for Respondent-State : Mr. N. T. Bhagat
Advocate for Respondent No.2 : Mr. S. S. Chapalgaonkar

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**CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 10-02-2022.**

ORDER :

1. Criminal Application No.307 of 2022 has been filed for assist to learned APP. Said application is allowed and disposed of.
2. Applicant in ABA No.2 of 2022 is apprehending his arrest in connection with Crime No.709 of 2021, registered with Karjat Police Station, District Ahmednagar, for the offences punishable under

Section 420, 406, 504, 506 of the IPC.

3. Heard learned Advocate Mr. S. S. Chapalgaonkar for applicant, learned APP Mr. N. T. Bhagat well assisted by learned Advocate Mr. R. P. Parwardhan. In order to cut short, it is stated that both of them have made submissions in support of their respective contentions.

4. Perusal of the FIR would show that the informant Kiran Shantilal Bothara, who is the applicant in Criminal Application No.307 of 2022, has stated about the transaction between him and the applicant. Applicant had asked him to provide chicks for his poultry farm to be given on credit. Applicant further requested informant that he should provide maize, yellow Soya DOC and jawar etc., which could be used as food for chicken should also be given to him on credit for the sell. Time and again till 13-06-2016 he had provided food articles worth Rs.84,14,164=43 Paisa. Applicant had paid him amount of Rs.31,56,070/- from 09-08-2016 to 15-12-2021. The outstanding amount is to the tune of Rs.52,58,094=43 Paisa. When the informant was asking about the outstanding amount, the applicant started avoiding, and later on he realized that

the applicant has cheated him.

5. It is to be noted that the transactions stated in the FIR are civil in nature. Whatever the outstanding amount was towards the goods supplied, could have been recovered by the informant by filing civil suit. The FIR is not clear as to from which date the said amount is outstanding. Further, for proving offence under Section 420 of IPC, there should be intention to cheat since beginning. Here from 2016 to 2021 the applicant has paid amount of Rs.31,56,070/-, therefore, possibility of giving criminal touch to a civil transaction, cannot be ruled out. Custodial interrogation of the applicant is not required for the purpose of investigation. The applicant was granted interim protection by this Court and that deserves to be confirmed, accordingly it is confirmed. Hence, following order.

ORDER

- 1) Criminal Application No.307 of 2022 is allowed and disposed of.
- 2) ABA No.2 of 2022 is hereby allowed.
- 3) The interim protection granted by this Court on 06-01-2022 to the present applicant is hereby confirmed.

In other words, in the event of arrest of applicant Vinay Ratnakar Machave, in connection with Crime No.709 of 2021, registered with Karjat Police Station, District Ahmednagar, for the offence punishable under Section 420, 406, 504, 506 of the IPC, he be released on PR of Rs.30,000/- each (thirty thousand) with one or two sureties of like amount.

4) He shall not tamper with the evidence of the prosecution in any manner and shall co-operate with the investigation and remain present before the Investigating Officer, if called.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-