

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.928 OF 2020

Ashish Jaypal Vankudre & Ors. ..Applicants
Versus
The State of Maharashtra & Anr. ..Respondents

**WITH
CRIMINAL APPLICATION (ST) NO.2370 OF 2020**

Priyanath Tukaram Kadam ..Applicant
Versus
The State of Maharashtra & Anr. ..Respondents

Mr. Ashok Mundargi, Senior Advocate i/by Rohan Hogle, for
the Applicants.

Ms. Pallavi Dabholkar, APP for the Respondent/State.

Mr. Pandit Kasar i/by Rohit Mangsule, for the Applicant in
Criminal Application (ST) No.2370 of 2020 & for Intervenor
in ABA.

CORAM : NITIN W. SAMBRE, J.

DATE : 14th SEPTEMBER, 2022

P.C.

1. Applicants are seeking pre-arrest bail in Crime
No.253 of 2020 registered with Rajarampuri Police Station,
Kolhapur for the offence punishable under Sections 406,
409 r/w 34 of IPC.

2. Case of the prosecution is, the complainants are
in the business of manufacture of agricultural equipments

for which they required certain parts to be externally sourced viz. Ball Bearing etc.. Applicants are manufacturers of Pin Ball Bearing and based on the supply order issued by complainant used to supply the same to the complainant company for a period from 2007 to 2012.

3. It is the case of the complainants that the said order of procurement secured by the applicant in connivance with the co-accused who was employee of the complainant. It is claimed that substantial financial loss is caused to the complainants by practicing fraud which amounts to cheating, criminal breach of trust etc.. As such, offence in question.

4. After having heard learned senior counsel, Mr. Ashok Mundargi for sometime, it can be inferred that the case of the applicants is based on the contractual obligation *inter-se* between the applicants and complainants.

5. In the aforesaid background, learned APP on the instructions from the Investigating Officer informs that the custody of the applicants is not required, as the custodial interrogation is not warranted in the facts of the present case.

6. The aforesaid position is disputed by the counsel

for the complainants on the ground that the applicants have acted in connivance with the accused No.1 as claimed herein-above. As such, he would urge that the prosecution was justified in invoking provisions of Section 34 of IPC.

7. Be that as it may, in the backdrop of the statement made by learned APP, I have perused the investigation papers in the light of submissions made by counsel for the complainant.

8. The offence alleged is based on business transaction *inter-se* between the present applicants and the complainants. Applicants have supplied Pin Ball Bearings as per the supply order placed by the complainants and the complainants have used said material for manufacturing finishing products which are already marketed by them. The complainants have already made substantial payments to the applicants as against said supply. That being so, it cannot be said that the necessary ingredients of Sections 406 or 420 of IPC is made out against the applicants which warrants custodial interrogation.

9. The application as such stands disposed of in terms of the statement made by learned APP.

10. As regards Criminal Application Stamp No.2370 of 2020, none appears for the non-applicant. As such, post the application for consideration on 6th October, 2022.

11. Office to register regular number to the application.

[NITIN W. SAMBRE, J.]