

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO.646 OF 2021

(NIRANJAN DEVILAL BOHRA...VS.. STATE OF MAH. THR. PSO PS GADGE NAGAR, AMRAVATI)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A.A.Naik, Advocate for Applicant.
Shri V.A.Thakre, A.P.P. for Non-applicant/State.

CORAM : ANIL S. KILOR, J.
DATED : FEBRUARY 16, 2022.

1. By the present application filed under Section 438 of the Code of Criminal Procedure the applicant is praying for grant of bail in the event of his arrest in Crime No.2057 of 2021 dated 07/06/2021 registered on a complaint made by Shashank Keshavrao Hiwase with Gadge Nagar Police Station, Amravati City against the applicant for the offences punishable under Sections 406, and 420 of the Indian Penal Code.

2. It is the case of the prosecution that on 14/12/2021 complainant-Shashank Hiwase, a Broker, Agricultural Produce Market Committee (APMC), Amravati lodged a written complaint stating therein that the applicant is a Trader who has cheated the complainant by not paying an amount of Rs.19,79,748/-. It is alleged that on the commission basis the informant being a registered broker handed over Soybean on different dates from 28/11/2020 to 24/12/2020, amounting to Rs.19,79,748/- and the said amount has not been paid by

the applicant.

3. Heard learned counsel for the applicant and the learned A.P.P. for the State.

4. Shri Naik, learned counsel for the applicant points out that the dispute involved in the present matter is purely of civil nature and by making complaint the complainant wants to recover the amount against the alleged supply of Soybean by the complainant.

5. It is submitted that this Court vide order dated 28/09/2021 has granted ad-interim protection and as per the condition put to the applicant the applicant has attended concerned Police Station on every Sunday between 11:00 a.m. and 02:00 p.m. He, therefore, prays for confirmation of the ad-interim protection granted vide order dated 28/09/2021.

6. On the other hand, the learned APP strongly opposed the application and he has made available the Police Diary for perusal. He has pointed out the involvement of the applicant in the alleged offence from the statements of the witnesses. He, therefore, prays for rejection of the present application.

7. After perusal of the Police Diary and considering the contents of the FIR and as observed by this Court while granting ad-interim protection that the allegations in the FIR are relating to simple sale-purchase

business transactions, wherein there is no aspect of deceitful intention to cheat. This Court has also observed while granting ad-interim protection that as the applicant did not receive the payment from the various traders, to whom he sold the purchased soybean, as the traders have raised dispute about quality of the seeds, he could not make payment to the complainant.

8. In this matter, the trial Court had also granted initially interim protection vide order dated 16/08/2021. Thereafter, the applicant was protected vide order dated 28/09/2021 by this Court. There is no complaint of misuse of liberty by the present applicant during this period. Moreover, nothing has been pointed out why custody of the applicant is necessary in the present matter. In that view of the matter, I pass the following order:

- i) The application is allowed.
- ii) The ad-interim anticipatory bail granted vide order dated 28/09/2021 to the applicant is hereby confirmed.

The Criminal Application stands **disposed of** accordingly.

JUDGE