

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

ANTICIPATORY BAIL APPLICATION NO.856 OF 2023

**NAGRAJ AMRUT SHERKHANE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr. A. B. Ghule, Advocate for the applicant
Mrs. G. L. Deshpande, APP for the respondent/State

CORAM : R. M. JOSHI, J.
DATE : 14th JUNE, 2023

P.C. :-

1. Applicant apprehends arrest in connection with CR No.148/2023 registered with Chandanzeera Police Station, Tal. And Dist. Jalna for the offences punishable under Sections 406, 420 read with Section 34 of the Indian Penal Code.

2. Informant is employed with Akshay Multi Trade Pvt. Ltd., Jalna. It is stated by the informant that in September, 2021 co-accused Krishna Sherkhane came to Jalna along with his brother Nagraj (applicant) and they introduced their firm Shrikrishna Steel. It is alleged that the applicant herein has introduced himself to be working in PWD at Kalburgi, Karnataka. It is alleged the applicant induced them enter into the transaction. In view of the said same informant had sold the steel rod to Shrikrishna Steel to the extent of 147 tonne of Rs.1,3,00,000/-.

The said sale was done on credit from time to time in the year 2021-2022. When the payment was sought by the informant initially the accused avoided and thereafter refused to pay the amount.

3. Learned counsel for the applicant states that the transaction in question commercial in nature and that no offence has been committed.

4. Learned APP opposed the said submissions by referring to the contents of the first information report. According to her the applicant herein has induced the informant to sale the steel rods to the Shrikrishna Steel and after receiving the said goods payment has not been made.

5. Perusal of the first information report itself shows that the applicant alleged to have approached to the informant in September, 2021. Though it is stated that the applicant has introduced himself to be employed in PWD, Kalburgi, but this was not false representation as there is no dispute about the fact that the applicant is employed in PWD at Kalburgi. The question arises as to whether *prima facie* any offence is committed in this case. It is clear from the first information report that from time to time on credit the goods were sold by the informant the accused. Non payment of the amount would only mean that the

informant is entitled to recover the said amount. In such cases of commercial transaction instead of filing the proceeding in accordance with law for the recovery of the amount no shortcut method can be allowed by roping other side in a criminal cases. Having regard to the facts of the case and particularly considering the commercial nature of the transaction, it is a fit case where the liberty of the applicant is protected. Hence the order.

ORDER

- (i) In the event of arrest of applicant in connection with CR No. 148/2023 registered with Chandanzeera Police Station, Tal. And Dist. Jalna for the offences punishable under Sections 406, 420 read with 34 of the IPC, he shall be released on interim bail on furnishing PR Bond of Rs.15,000/- (Rupees fifteen Thousand only) with one solvent surety in the like amount.
- (ii) Applicant is directed to appear before the concerned Investigating Officer once a week till filing of the charge-sheet.
- (iii) He shall not contact the witnesses directly or indirectly.
- (iv) He shall not interfere with the evidence in any manner whatsoever.
- (v) He is further directed to cooperate the Investigating Agency for further investigation.

(R. M. JOSHI, J.)

ssp