

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1499 OF 2022

Nilesh S/o. Laxmikant Chhajed Applicant

Versus

The State of Maharashtra
and another Respondents

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Mr. D.S. Bagul, Advocate for the Applicant
Mr. A.V. Deshmukh, APP for Respondents – State
Mr. Suniket Kulkarni, Advocate for the informant

WITH

ANTICIPATORY BAIL APPLICATION NO. 1764 OF 2022

Ajay Laxmikant Chhajed Applicant

Versus

The State of Maharashtra
and another Respondents

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Mr. L.S. Mahajan, Advocate for the Applicant
Mr. A.V. Deshmukh, APP for Respondents – State
Mr. Suniket Kulkarni, Advocate for the informant

WITH

ANTICIPATORY BAIL APPLICATION NO. 1785 OF 2022

Miss Vaidehi Sitaram Bhagirath Applicant

Versus

The State of Maharashtra
and another Respondents

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Dr. S.G. Nandedkar, Advocate for the Applicant
Mr. A.V. Deshmukh APP for Respondents – State

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[CORAM : NITIN B. SURYAWANSHI, J.]

RESERVED ON : 15th FEBRUARY, 2023

PRONOUNCED ON : 14th March, 2023

ORDER :

1. The applicants apprehend their arrest in Crime No.622 of 2022 registered with Shahada Police Station, District Nandurbar for offences punishable under sections 420, 406, 464, 465, 467, 468 read with 34 of the Indian Penal Code.

2. FIR is lodged by Sameer Harunbhai Khimani against 4 accused persons alleging that, he had decided to make partnership along with accused Paresh Sonar, Ajay Chhajed and Jitesh Khandelwal to start bio diesel pump at Chopda. The collector, Jalgaon has accorded sanction for the bio-diesel pump. They contributed the amount to run the pump. There was no contribution by accused Ajay Chhajed. They opened a bank account in Bank of India, Branch at Chopda. Since Chopda city is far away from Shahada city, in order to smoothly operate the bank transactions, they all had given power to Ajay Chhajed. They have also given letter pad and signed blank cheques to accused Ajay Chhajed. A cheque book was also given to him bearing cheque Nos. 29801 to 29817, with letter pad. Ajay Chhajed and his younger brother Nilesh

Chhajed run a business in the name of Bhuval Traders at Shahada. They misappropriated the funds of partnership firm, and utilized it for their own use and committed a breach of trust. Certain amount was transferred by RTGS, NTF and through cheque in the account of Bhuval Traders. They have used the cheque of partnership firm for their own use.

3. Heard the learned advocate for the applicants, learned Additional Public Prosecutor for the respondents - State, and the learned advocate for the informant. Perused investigation papers .

4. *Prima facie*, it appears that dispute of civil nature between the partners and others is being given colour of criminal offence.

5. Applicant in anticipatory bail application no. 1785 of 2022 has filed complaint under section 138 of the Negotiable Instruments Act against the partners of Jai Mahavir bio-diesel pump i.e. Jitesh Shantilal Khandelwal, Ajay Laxmikant Chhajed, Sameer Harunbhai Khimani (informant), and Presh Rajendra Sonar alleging that the partners of Jai Mahavir bio-diesel pump had agreed to include her brother Kunal as Partner by accepting Rs.15,00,000/-. The said understanding

was written down on an agreement, which was written on letter pad of Jai Mahavir bio-diesel pump, and all the accused (partners) had signed on the said agreement. As per the conditions mentioned therein, if the business is stopped, then partners were to pay back Rs.15,00,000/-. Therefore, a cheque of Rs.15,00,000/- was given by the accused named in the said complaint, which was bounced. Hence, the said complaint is lodged. According to the applicant, only because the said complaint is lodged, the informant has filed the present FIR with a view to pressurize the applicants, and to give counter blast to the same.

6. According to the Investigating Officer, most of the documents are seized. However, the custody of the applicant is necessary for seizure of signed cheques, and blank signed letter pads.

7. Applicant Niles Chhajed in anticipatory bail application No.1499 of 2022 has filed additional affidavit and has placed on record some documents. He has stated that as a proprietor of Bhuwal Traders, he has 2 pan numbers and 2 bank accounts (individual and business). According to him, as per record, for giving hand loan to Jai Mahavir bio-diesel, he has withdrawn the amount from Bhuwal Traders account in his

name, and thereafter, the said amount was given as a hand loan to Jai Mahavir bio-diesel. The audited accounts of Bhuval shows that he has withdrawn the said amount and he has paid it to Jai Mahavir bio-diesel. He has affirmed that the informant and his partners have handed over only one cheque to him of Rs.18,00,000/-, which was dishonoured, and therefore, he has filed complaint under section 138 of the Negotiable Instruments Act against Jai Mahavir bio-diesel and its partners. He has further stated that he has co-operated in the investigation, and he has undergone angioplasty. He has also submitted extract balance sheet and capital account.

8. Applicant Ajay Chhajed in anticipatory bail application no. 1764 of 2022 has also filed additional affidavit and has specifically stated he has retired from the partnership of Jai Mahavir bio-diesel since 15/03/2021 by way of dissolution deed, Exhibit 'C', page 42. The dissolution deed is signed by the partners including him, wherein it is stated that there is no dispute as regards transactions of the firm, and there is no outstanding of any nature on him, and he is discharged as partner. He has further claimed that the informant has filed a complaint after more than 18 months of dissolution of partnership, which itself shows falsity in his allegations, and

the same is filed to give counter blast to the proceedings filed by his brother Nilesh Chhajed. He has further stated that he does not have any cheques, stamps, letterheads, due to dissolution of partnership.

9. Taking into consideration the attending circumstances and the fact that 138 proceedings are filed by some of the applicants against the informant and others, and in view of specific statements made by the accused persons that they do not possess any cheques or letterheads, the apprehension of the informant about likely misuse of the same, is taken care of.

10. The applicants were granted interim protection and they have co-operated in the investigation. Nothing is to be recovered from the applicants. Their pre-trial custodial detention, in the facts of the present case, is not necessary. The applications, therefore, deserve to be allowed.

11. In the result, the applications are allowed by confirming interim protection.

12. In the event of arrest of applicants in connection with Crime No.622 of 2022 registered with Shahada Police Station, District Nandurbar for offences punishable under sections 420,

406, 464, 465, 467, 468 read with 34 of the Indian Penal Code, the applicants shall be released on bail on executing Personal Bond of Rs.15,000/- each with one surety in the like amount.

13. Till filing of the charge sheet, the applicants shall attend the concerned police station as and when called by the investigating officer and co-operate in the investigation. The applicants shall not tamper the prosecution evidence.

[NITIN B. SURYAWANSHI]
JUDGE

S.P. Rane