

Santosh

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

ANTICIPATORY BAIL APPLICATION NO. 998 OF 2023

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Aashish Shantaram Sathe ...Applicant
Versus
State of Maharashtra ...Respondent

Mr. Vaibhav Gaikwad, for the Applicant.
Smt. Ashwini Takalkar, APP for the State/Respondent.
Mr. Balwant Salunkhe, for the Complainant.

CORAM: N. J. JAMADAR, J.
DATED: 18th DECEMBER, 2023

ORDER:-

1. Heard the learned Counsel for the applicant and the learned APP for the State.
2. This is an application for pre-arrest bail in connection with CR No.134 of 2023, registered with Shirur Police Station, Pune Rural, for the offences punishable under Sections 406 and 420 read with Section 34 of the Indian Penal Code, 1860 ("the Penal Code").
3. The indictment against the applicant is that since the month of June, 2022, the applicant had induced the first informant and other farmers to sell 502 tone sugarcane by making a false representation that the applicant would pay the price of sugarcane and thereby the applicant deceived the

first informant and other farmers to the tune of Rs.12,25,000/-.

4. When the application was listed before the Court on 5th April, 2023 this Court had granted interim protection. Subsequently, the applicant has deposited a sum of Rs.6,12,500/- in this Court without prejudice to the rights and contentions of the applicant.

5. Mr. Salunkhe, the learned Counsel for the first informant, submitted that as the first informant and the other victims are the farmers, they be permitted to withdraw the amount of Rs.6,12,000/- deposited by the applicant.

6. Mr. Gaikward, the learned Counsel for the applicant, resisted the prayer as the first informant and others have lodged complaints for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 as well against the applicant, and the applicant may be called upon to make deposit of 20% of the cheque amount and face the prosecution for the very same cause.

7. *Prima facie*, it appears that the allegations are that the applicant had not paid the price of the sugarcane which the farmers were induced to sell and deliver to the applicant. In the circumstances, the question as to whether the intention

of the applicant was dishonest since the very inception of the transaction, would arise for adjudication.

8. Since the applicant has shown *bona fide* by depositing a sum of Rs.6,12,500/- and the major offence punishable under Section 420 entails punishment, which may extend to seven years, I find it expedient to allow the application.

9. So far as the prayer for withdrawal of the amount is concerned in my view it would be just and proper to allow the first informant to withdraw a sum of Rs.3,12,500/- deposited by the applicant subject to an undertaking that the first informant will bring back the said amount alongwith such interest as may be ordered by any Court. The balance amount of Rs.3,00,000/- shall remain deposited till the disposal of the case arising out of CR No.134 of 2023.

10. Hence the following order:

: O R D E R :

(i) In the event of arrest of the applicant in CR No.134 of 2023, registered with Shirur Police Station, Pune Rural, the applicant be released on bail on furnishing a PR Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

- (ii) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant or any of the persons acquainted with the facts of the case.
- (iii) The applicant shall regularly attend the proceedings before the jurisdictional Court.
- (iv) The first informant is permitted to withdraw the sum of Rs.3,12,500/- subject to furnishing an undertaking that he would bring back the said amount alongwith such interest as may be directed by any Court.
- (v) The balance of Rs.3,00,000/- be transferred to the Court exercising jurisdiction over the Shirur Police Station and abide the outcome of the case arising out of CR No.134 of 2023, Shirur Police Station.

Application stands disposed.

[N. J. JAMADAR, J.]