



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1636 OF 2023**

Mohd. Shadab Mohd. Irfan

... Applicant

versus

The State of Maharashtra

... Respondent

Mr. Karim Pathan for Applicant.

Mr. S.H.Yadav, APP for State.

CORAM: N.J.JAMADAR, J.

DATE : 11 DECEMBER 2023

P.C.

1. Heard the learned Counsel for the parties.
2. This is an application for pre-arrest bail in connection with C.R.No.90 of 2023 registered with Tasgaon Police Station for the offences punishable under Sections 420 read with Section 34 of the Indian Penal Code.
3. The gravamen of indictment against the applicant is that the applicant who is resident of Merut, U.P. and co-accused Akbar had induced the first informant and other 21 farmers to sell the grapes by making a small payment in cash, and delivering the cheques for the balance unpaid price. Later on, those cheques were dishonoured on presentment.
4. As none had appeared for the applicant on 28 August 2023, this Court had posted the application for dismissal order on 25 September 2023. On the adjourned date, a statement was made on behalf of the applicant that the applicant has

made substantial payment and is willing to file an affidavit indicating the amount which is due and payable by him and the manner in which the applicant proposed to make amends.

5. Learned Counsel for the Applicant submits that despite repeated instructions, the applicant is not coming forward to file an Affidavit.

6. Ordinarily, since the offence under Section 420 of the IPC entails punishment which may extend to 7 years, the Court would have better exercised the discretion to grant pre-arrest bail. However, the allegations in the FIR indicate that the applicant had allegedly deceived 21 farmers. The modus operandi was to make initial payment of small amount, gain trust and, thereafter, commit default in payment of the unpaid price of the grapes. It seems that poor and unsuspecting farmers have been deceived in a systematic manner.

7. Since the applicant is not coming forward to state the amount which he had allegedly paid to those farmers and make a clean breast of the transactions, despite ample opportunity, the applicant does not deserve the exercise of discretion.

7. Hence, the application stands dismissed.

8. It is, however, clarified that the observations are confined to the consideration of entitlement for pre-arrest bail and the trial Court shall not be influenced by any of the observations in further proceedings.

(N.J.JAMADAR, J.)