

Santosh

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

ANTICIPATORY BAIL APPLICATION NO. 2565 OF 2023

Sidhappa ALS Bhandari @ Sunil ...Applicant
Versus
State of Maharashtra and anr. ...Respondents

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Mr. Sandeep Satkar, for the Applicant.
Mr. R. M. Pethe, APP for the State/Respondent.
Mr. Sheyas Purushottam Barsawade, for the Complainant.
Mr. Amol Rasa, API, Bharati Vidyapith Police Station, Pune,
present.

CORAM: N. J. JAMADAR, J.
DATED: 20th SEPTEMBER, 2023

ORDER:-

1. Heard the learned Counsel for the applicant and the learned APP for the State.
2. This application is preferred for pre-arrest bail in connection with CR No.183 of 2023, registered with Bharati Vidyapeeth Police Station, Pune, for the offences punishable under Sections 420, 406 and 506 read with Section 34 of Indian Penal Code, 1860 ("the Penal Code").
3. The applicant is the proprietor of M/s. KMV Sidhappa and Sons. The applicant had purchased onion from the first informant since year 2021. The applicant allegedly

committed default in payment of the price of the goods purchased.

4. The first informant thus lodged report with the allegations that the applicant and co-accused Gajendra induced him to sell substantial quantity of onion aggregating to a sum of Rs.1,65,06,935/- since May, 2021. The applicant represented that he was exporting the onion to Shri Lanka and other countries. Initially regular payments were made. Later on, the applicant committed default in payment of price of the goods. As of May, 2022 a sum of Rs.46,33,000/- was due and payable by the applicant. The first informant claimed to have visited the applicant's place and found that the applicant was dealing in the business locally and was not exporting the goods. Since the amount was not paid despite repeated assurances, the first informant lodged report.

5. The learned Counsel for the applicant submitted that the allegations in the first informant report about the sum of Rs.46,33,000/- being outstanding are not true. In any event, there were purely commercial transactions between the applicant and the first informant. Custodial interrogation of the applicant is not warranted for effective investigation.

6. The learned Counsel for the first informant submitted that since the year 2021, the first informant had supplied the goods and a sum of Rs.46,30,000/- is still due and payable. If the applicant is granted protection, the applicant be directed to deposit a substantial amount.

7. *Prima facie*, the allegation in the FIR indicate that there were multiple transactions over an extended of time between the first informant and the applicant. Goods were first supplied in the month of May, 2021. Aggregate price of goods supplied by the first informant to the applicant was allegedly Rs.1,65,06,935/-. Out of the said amount the first informant alleges a sum of Rs.46,33,000/- is due and payable. The quantum of sale and delivery of the onion and the unpaid price thereof are the matters for trial. However, the very allegation in the FIR *prima facie* rule out dishonest intention on the part of the applicant since the inception of the transaction. At best, it could be a case of failure on the part of the applicant to pay the price of the goods purchased. However, the element of deceit *prima facie* lacks.

8. I am, therefore, inclined to exercise the discretion in favour of the applicant.

9. Hence, the following order:

: O R D E R :

- (i) In the event of arrest of the applicant in CR No.183 of 2023, registered with Bharati Vidyapeeth Police Station, Pune, 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 cooperate with the investigation and attend Bharati Vidyapeeth Police Station on every alternate Saturday in between 10.00 am. to 1.00 pm. for a period of two months.
- (iii) The applicant shall not tamper with the prosecution evidence and give threat or inducement to the first informant and any person acquainted with the facts of the case.
- (iv) It is clarified that these *prima facie* observations are confined to determine entitlement to pre-arrest bail only.

Application stands disposed.

[N. J. JAMADAR, J.]