



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

BAIL APPLICATION NO.1165 OF 2024

NANASAHEB BHANUDAS BHOSALE
VERSUS
THE STATE OF MAHARASHTRA

...
Mr. Abhijit S. More, Advocate for Applicant
Mr. D.J. Patil, APP for Respondent/State
Mr. Dhananjay A. Naik, Advocate for Assist to PP
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 12th AUGUST, 2024

PER COURT :

1. This application is filed under Section 439 of the Code of Criminal Procedure by applicant, in C.R. No.223/2023, registered with Bembli Police Station, Osmanabad, for offence punishable under Sections 417 and 420 of the Indian Penal Code.
2. Nagnath Wadwale lodged FIR alleging that applicant is serving in police department, Osmanabad. Brother of informant is an advocate at Osmanabad Court. Wife of applicant had filed case against him and informant's brother was representing applicant in the said case. Informant since then was knowing applicant. Applicant offered to purchase agricultural produce of informant at higher rate than market rate. Informant sold Soyabean, Harbhara and Jawar to applicant. Along with informant 11 more agriculturists sold their agricultural produce to applicant. Applicant paid half the amount of agricultural produce and gained trust of informant.

Informant, therefore, told other agriculturists that applicant is purchasing agricultural produce at rate higher than market rate and he trusts him. Believing informant, 33 agriculturists from village Ruibhar and Baramgaon sold their yield of the year 2022, total 7849 quintal 33 kg Soyabean and Harbhara (gram) worth Rs. 50,35,043/-, to applicant through informant. At the time of this transaction applicant, informant, agriculturists and driver of applicant's vehicle were present. Applicant transported agricultural produce purchased by him in four vehicles. Applicant assured informant and agriculturists that he will pay their amount within thirty days. By way of security, applicant gave cheque of Rs. 50,35,043/- of HDFC bank to informant. After completion of thirty days period, informant repeatedly approached applicant and requested him to pay the dues of agriculturists. However, applicant did not pay the amount. Informant, therefore, deposited cheque on 12/07/2022. However, the cheque was dishonored. Informant, thereafter, sent legal notice to applicant. On receipt of notice, applicant has given undertaking on Rs. 500/- bond paper that he will pay the dues of agriculturists. On 03/10/2022, applicant gave another cheque of the same amount, which on deposit was dishonored. Since, agriculturists were insisting for payment of their dues, informant had sold plot of his nephew and had taken hand loan and paid Rs.32 lakhs as part payment to agriculturists. Informant has filed SCC No.717/2023 under section 138 of N.I. Act, for dishonor of second cheque. He,

therefore, claimed that applicant has deceived him and other 33 agriculturists.

3. Heard learned advocate for applicant, learned APP for respondent/State and learned advocate for informant. Perused the record.

4. Learned APP and learned advocate representing respective informant vehemently opposed the application contending that applicant has deceived poor agriculturists for substantial sum of money and even other agriculturists apart from informant, have lodged FIR against him.

5. Pursuant to the registration of crime, applicant was arrested on 27/03/2024 and was remanded to police custody and subsequently to the magisterial custody, and since then he is in jail. Charge-sheet came to be filed on 20/05/2024.

6. During the course of argument, applicant to show his bonafides, submitted that he is ready to sell the property and pay the dues of informant. Applicant was then asked to state the said fact on affidavit. Applicant's mother has filed affidavit stating that she has joint 1/5th share in the land Gut No.51, admeasuring 84 R and it's market value is 1.5 Crores, so she will be getting Rs.30 Lakhs to the extent of her share from sell of said land. She also has property bearing No.4551, admeasuring 279 Sq. Meters, wherein RCC house is constructed and it's market value is Rs.1 Crore. From selling of both the properties she is willing to repay the dues of

informant.

7. Considering the fact that charge-sheet is filed and applicant is in jail since 27/03/2024 and as the trial is not likely to commence in near future, further pre-trial custodial detention of applicant is not necessary. Affidavit of applicant's mother is sufficient to show the bonafides of applicant and the same is taken as undertaking to this Court. Applicant is Government Servant and is permanent resident of Bembli village, Osmanabad. He has deep roots in the society and he will not abscond if released on bail. He will be available for trial.

8. In the result, application is allowed.

9. Applicant Nanasaheb Bhanudas Bhosale be released in connection with C.R. No.223/2023, registered with Bembli Police Station, Osmanabad, for offence punishable under Sections 417 and 420 of the Indian Penal Code, on executing Personal Bond of Rs.50,000/- with one surety in the like amount. Applicant shall abide by the undertaking and shall not tamper prosecution evidence.

(NITIN B. SURYAWANSHI, J.)