



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1554 OF 2023

Nanasaheb Bhanudas Bhosale

....Applicant

VERSUS

The State Of Maharashtra And Another

.....Respondents

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Mr. A.S. More, Advocate for applicant.

Mr. N.B. Patil, APP for State.

Mr. D.A. Naik, Advocate for assist the PP.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 19th JANUARY, 2024

ORDER :

1. Applicant apprehends arrest in Crime No. 223/2023, registered with Bembli Police Station, Osmanabad, for the offences 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

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produce of informant at higher rate than market. 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 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 NI Act for dishonor of second cheque. He therefore claimed that applicant has deceived him and 33 agriculturists.

3. Heard learned advocate for applicant, learned APP for respondent-State and learned advocate for informant. Perused the investigation papers.

4. Learned advocate for applicant submits that this is purely a civil dispute, which is given color of criminal prosecution. Due to financial constraints, applicant is not in a position to pay the amount to agriculturists and informant. According to him, there was no intention to cheat, as part payment was already made by applicant. He therefore claims that applicant be granted protection.

5. Learned APP by relying on investigation papers and learned advocate for informant opposed the bail application.

6. Perusal of investigation papers show that applicant has induced informant and 33 agriculturists to sell their agricultural produce by offering them higher rate than market. He has paid only half the amount of purchase. Thus, it appears that since beginning applicant had intention to cheat informant and agriculturists. There is merit in the submission of learned APP that applicant has committed criminal breach of trust. Two cheques given by applicant to informant are dishonored. Applicant has executed an undertaking on bond paper of Rs. 500/- wherein he has admitted that he has purchased agricultural produce from 33 agriculturists worth Rs. 50,35,043/- through informant and in lieu of payment of said amount he has given cheque to informant and if said cheque is dishonored informant may initiate appropriate legal action against him. It *prima facie* appears that applicant fraudulently and dishonestly induced informant and agriculturists to sell their agricultural produce at higher rate than market and he never intended to make payment of agricultural produce purchased by him. *Prima facie*, there appears material to show involvement of applicant in

cheating and criminal breach of trust, and custody of applicant is therefore necessary for effective investigation. Applicant though is serving in police department has indulged in business of purchasing agricultural produce from agriculturists and deceiving them. Applicant therefore is not entitled for discretionary relief of anticipatory bail at this stage. Application is therefore rejected.

[NITIN B. SURYAWANSHI, J.]