

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1263 OF 2024

Suhas Balasaheb Bhogan	...	Applicant
Vs.		
State of Maharashtra	...	Respondent

Mr. Vaibhav Kulkarni a/w. Mr. Ajinkya Kamble for Applicant.

Mr. Tanveer Khan, APP for Respondent-State.

Mr. Aliahamad Mulla, API, Chandgad Police Station, Kolhapur.

CORAM : MANISH PITALE, J.

DATE : JUNE 19, 2024

P.C. :

. Heard learned counsel appearing for the applicant and learned APP appearing for the respondent - State.

2. The applicant has approached this Court as he apprehends arrest in connection with FIR No.0106 of 2024 dated 16.03.2024 registered at Chandgad Police Station, District - Kolhapur for offences under Sections 406 and 420 read with Section 34 of the Indian Penal Code, 1860 (IPC).

3. A perusal of the statement leading to registration of the FIR shows that according to the informant, the applicant and his father being owners of M/s. S R Cashew Industries cheated him as cashews were supplied to the said S R Cashew Industries in the year 2019 and till date, the amount due for supply of the cashews i.e. Rs.37,28,445/- was not paid.

4. The learned counsel for the applicant submits that there is unexplained huge delay of about five years in registration of the FIR as even according to the informant, the cashews were allegedly supplied on

09.11.2019 and the FIR has been registered on 16.03.2024. It is further submitted that the dispute between the parties, at best, is a civil dispute, which has been deliberately given colour of criminality only to put pressure on the applicant. It is submitted that the applicant is ready to co-operate with the investigation and that therefore, this Court may consider the present application favourably.

5. On the other hand, the learned APP submits that allegation of cheating is made in the statement of the informant and it is found that the applicant has criminal antecedents inasmuch as another case involving the offence of cheating has been registered in the State of Kerala. It is further submitted that the FIR is recently registered and the investigation is in nascent stage, and therefore, this Court may not grant any relief.

6. Perusal of the statement of the informant leading to registration of the FIR shows that the informant has referred to the amounts allegedly due from the applicant for supply of cashews on various dates. It is stated that despite repeated requests, the amount was not paid and then it is simply stated that the applicant and his father on 09.11.2019 at about 1:00 p.m. took the supply of cashews from the factory of the informant and having failed to pay the amount of Rs.37,28,445/-, cheated the informant.

7. The grievance has been raised by the informant on 16.03.2024, while according to the informant himself, the incident occurred as far back as on 09.11.2019. There is indeed delay in registration of the FIR.

8. This Court further finds that *prima facie*, the essential ingredients of the offence of cheating are not palpably made out on the basis of the brief statement of the informant, leading to registration of the FIR. The informant has simply stated that the aforesaid amount is due and hence,

the applicant has cheated the informant.

9. There is substance in the contention raised on behalf of the applicant that this could be said to be a dispute of civil nature, concerning recovery of amounts due, if any, from the applicant. As regards the criminal antecedents, a perusal of the FIR registered in the State of Kerala shows that it is dated 18.01.2020 and the accused is the father of the applicant before this Court. A perusal of the said FIR also shows that the period of the alleged incidents, concerning the case in Kerala is from 04.06.2018 to 29.06.2018.

10. Considering the aforesaid material, a *prima facie* case is indeed made out by the applicant in his favour for granting relief in the present application, particularly because the applicant undertakes to co-operate with the investigation.

11. In any case, the material on which the informant would rely is necessarily documentary in nature, for the reason that the informant claims supply of specific quantities of cashews to the applicant.

12. In view of the above, the application is allowed in the following terms:-

- A. In the event the applicant is arrested in connection with FIR No.0106 of 2024 dated 16.03.2024 registered at Chandgad Police Station, District - Kolhapur, he shall be released on bail on furnishing PR Bond of Rs.50,000/- [Rupees Fifty Thousand only] and a surety in the like amount to the satisfaction of the Court;
- B. The applicant shall remain present before the investigating officer on 25.06.2024 and thereafter, as and when called by the investigating officer. He shall co-operate with the

investigation;

- C. The applicant shall not influence the informant, witness or any person concerned with the case and he shall not tamper with the evidence.

10. In case any of the aforesaid conditions are violated, the present order would be liable to be cancelled.

11. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicant in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

12. The application is disposed of.

(MANISH PITALE, J.)

Minal Parab