



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2657 OF 2023**

Raosaheb Babu Ade and Ors. ... Applicants
versus
The State of Maharashtra ... Respondent

WITH
INTERIM APPLICATION NO.3451 OF 2023
IN
ANTICIPATORY BAIL APPLICATION NO.2657 OF 2023

Prashant Prabhakar Patil ... Applicant/Interveners
and
Raosaheb Babu Ade and Ors. ... Applicants
versus
The State of Maharashtra ... Respondent

Mr. Mahesh Rawool with Mr. Sahil Ghule i/by Mr. Avinash B. Avhad, for Applicant.
Mrs. Mahalaxmi Ganpathy, APP for State.
Mr. Ashok Tajane, for Intervener.

CORAM: N.J.JAMADAR, J.

DATE : 5 AUGUST 2024

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.480 of 2023 registered with Faujdar Chawadi Police Station, Solapur City for the offences punishable under Sections 417, 420 read with Section 34 of the Indian Penal Code.
3. By the orders passed by this Court in connected matters, the co-accused have been granted pre-arrest bail.
4. In this application, by an order dated 7 October 2023, this Court had

granted interim protection to the applicants observing, inter alia, as under :

“7. By an order dated 14 September 2023, this Court has granted interim protection to Arvind Digambar Bharti, who is similarly circumstanced like Applicant No.3. So far as Applicant Nos.1 and 2, prima facie, there are documents which show that certain payments have been made on behalf of Applicant Nos.1 and 2. Whether the intention of the applicant Nos.1 and 2 was dishonest since inception of the transactions and the sugar factory has been defrauded of the amount, as alleged, warrants investigation.”

5. Learned APP, on instructions, submits that the IO has investigated the claim of the applicants that certain amounts were repaid. Learned APP submits that the Applicant No.1 had availed advance of Rs.18 Lakhs. As against the said advance, the applicant No.1 had rendered services to cover the amount of Rs.6,39,457/-. A sum of Rs.4 Lakhs was repaid by the applicant No.1. Thus, the factory was defrauded to the tune of Rs.7,52,453/-.

6. As regards the applicant No.2 – Deepak Balasaheb Rathod, it is alleged that he had taken an advance of Rs.18,04,000/-. He had rendered services to cover an amount of Rs.61,000/- only. An amount of Rs.5 Lakhs has been repaid by him. Thus, the factory was defrauded for the balance amount.

7. It was submitted on behalf of the applicants that the contractors could not render services as the crushing of sugarcane was stopped by the factory.

8. Prima facie, the documents placed on record on behalf of the Applicant Nos.1 and 2 to show that they had repaid certain amounts, find support in the

investigation carried out by the IO. The quantum of the amounts for which the applicants had rendered services is, in its very nature, a question of fact and matter for evidence.

9. Mr. Tajane, learned Counsel for the first informant submitted that it has been a *modus operandi* of the contractors to avail advances from the multiple factories as well as transporters and not render the services. This has caused immense hardship to the transporters resulting in untoward incidents. Taking note of the said alarming situation, directions have been issued to register crimes against the erring contractors.

10. The submission of Mr. Tajane that some unscrupulous contractors have resorted to such fraudulent practices may have an element of substance. However, in the facts of the case, as noted above, the investigation has revealed that Applicant Nos.1 and 2 have rendered the services, the quantum of which is debatable and they have also repaid a certain portion of the advance.

11. In this backdrop, whether the intention of the applicants was dishonest since inception, would be a matter for adjudication at the trial. The custodial interrogation of the applicants is not warranted. I am, therefore, inclined to make the order of interim bail absolute.

12. Hence, the order dated 7 October 2023 is made absolute on the terms and conditions incorporated therein.

13. The applicants shall henceforth appear before the IO as and when

directed.

14. In the event the chargesheet is lodged, the applicants shall regularly attend the proceedings before the jurisdictional Court.

15. Interim Application No.3451 of 2032 also stands disposed.

16. By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for pre-arrest bail only.

(N.J.JAMADAR, J.)