

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

CR. ANTICIPATORY BAIL APPLICATION NO. 358 OF 2024

Sambit @ Umakant Satyabadi Sahu

...Applicant

Versus

State Of Maharashtra

...Respondent

Mr. Prabhakar Tripathi a/w. Adv. Padmakar Tripathi, Adv. Shubham
Upadhyay i/b. Tripathi And Associates for the Applicant.

Ms. Pallavi N. Dabholkar, APP for the Respondent-State

CORAM : SARANG V. KOTWAL, J

DATED : 8th FEBRUARY, 2024

P.C.:

1. The Applicant is seeking anticipatory bail in connection with C. R. No. 838 of 2023 registered at Sangola Police Station, dated 13/09/2023 u/s. 406 r/w. 34 of the Indian Penal Code.
2. Heard Mr. Tripathi, learned counsel for the Applicant and Ms. Dabholkar, learned APP for the Respondent-State.
3. The FIR is lodged by one Navnath Bhosale. He had his office at Market Yard, Sangola, District Solapur by the name Aryan Roadlines. The informant used to purchase the vegetables and fruits from the farmers in Sangola Taluka and used to send goods wherever the prices were high throughout the country. During his business, he got acquainted with the present Applicant. They had never met but there

used to be telephonic conversations. The Applicant had a transport vehicle. The informant sometime used to hire that vehicle. On 08/09/2023, the informant purchased capsicums of 8,300 kg. On that date, the prices for capsicums were high in West Bengal. Therefore, the informant decided to send those vegetables to Asansol, West Bengal. The informant called the Applicant and made an enquiry about the vehicle. It was available in Sangola. The Applicant sent his vehicle to the informant's shop. One Rayatrinath was the driver of that vehicle. The capsicum weighing 8,300 kg. were loaded in that vehicle and in the evening of 08/09/2023 at around 7.00PM, the vehicle started from Sangola for Asansol in West Bengal. It was expected to reach there on 10/09/2023. But it did not reach and after that there was no contact of the informant with either the driver or the Applicant. They were avoiding the informant's call. The informant realized that his goods were misappropriated causing wrongful loss to him. On these allegations, the FIR is lodged.

4. Learned Counsel for the Applicant submitted that during the transit, the rates of the capsicums fell and therefore, at the instructions of the informant himself, the Applicant sold those vegetables at Bhubaneswar. The Applicant got Rs.1,89,314/- by selling the capsicums. Out of which he had kept Rs.89,314/- as his

charges and Rs.1,00,000/- were transferred in the name of the present informant by the market president. He, therefore, submitted that there was no misappropriation on the part of the Applicant.

5. Learned APP opposed this Application. She produced the investigation papers. Those papers contained the statement of the co-accused Upendra Bhagat, who had attended the police station pursuant to the notice u/s. 41-A of the Cr.P.C. He had stated that on 09/09/2023, he had given telephone number of Nityanand Sahu to the Applicant. On 11/09/2023, Nityanand told him that vegetables sent by the Applicant were stolen property. He then contacted the Applicant, who denied that it was a stolen property. The Applicant claimed ownership of that property. After that vegetables were sold in the market by Nityanand for Rs.1,89,314/-. He had paid cash of Rs.89,314/- to the Applicant. Rs.25,000/- were given to the Applicant on his account and Rs.1,00,000/- was sent to the informant on 11/10/2023. Nityanand Sahu had given a statement before the police. He has stated that the Applicant had sent those vegetables to him. The police officers from Maharashtra were contacting Nityanand. In the meantime, Nityanand had sold the vegetables but he did not part with that money. He has supported Upendra's statement that Rs.89,314 were given to the Applicant and

Rs.1,00,000/- were sent by Nityanand to the Upendra's account. There is another statement of the witness Hamid Khan. He has corroborated the informant's statement about loading the vegetables in that particular vehicle from Sangola. This witness was in touch with the driver of the vehicle. Subsequently, the driver was giving evasive answers. The goods were misappropriated.

6. Thus, from the investigation it is quite clear that the Applicant had committed this offence with planning. There is nothing to show on record that the informant had instructed the Applicant to sell the goods in the market at Bhubaneswar. The amount of Rs.1,00,000/- was sent to the informant's account after a month when the police were following up the matter and were making inquiries. The Applicant had not contacted the informant. Even his driver had not contacted the informant and therefore, at this stage there is sufficient corroboration to the informant's story. In this view of the matter, the offence is made out. The Applicant's custodial interrogation is necessary.

7. The Application is, therefore, rejected.

(SARANG V. KOTWAL, J.)