

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2068 OF 2024

1. Shahid Aziz Inamdar
2. Aziz Gulab Inamdar ... Applicants
Vs.
State of Maharashtra ... Respondent

Mr. Nitin Gaware Patil a/w. Mr. Shubham Wadne for Applicants.
Mr. Shahaji Shinde. 'A' Panel Counsel with Ms. Megha Bajoria, APP for Respondent-State.

CORAM : MANISH PITALE, J.
DATE : AUGUST 07, 2024

P.C. :

- . Heard learned counsel for the parties.
2. The applicants are apprehending arrest in connection with FIR No.381 of 2024 dated 23.06.2024 registered with Panchvati Police Station, District - Nashik, for offences under Sections 406, 420 read with Section 34 of the Indian Penal Code, 1860 (IPC).
3. The FIR has been registered on the basis of statement of the informant, which alleges that the applicants entered into an arrangement with the informant as regards sale and purchase of fruits *Shimla* apple between August 2023 and October 2023. The grievance of the informant appears to be that although part of the amount due from the applicants was received, balance amount was never paid and therefore, the applicants have cheated the informant.
4. The learned counsel for the applicants has invited attention of this Court to the statements of bank accounts, indicating that specific amounts were transferred to the informant as per agreed arrangement in

respect of the aforesaid fruits being made available. It is submitted that, at worst, there is a commercial / civil dispute between the parties and even if the statement of the informant is taken into consideration, it cannot be said that from the inception, the applicants had any intention to cheat the informant. It is further submitted that the applicants are ready to co-operate with the investigation.

5. On the other hand, learned APP submits that the applicants are habitual offenders. It is submitted that today, the investigation papers are not available and hence, this Court may grant time to place investigation papers along with statements of witnesses, which would indicate that a strong *prima facie* case is made out against the applicants.

6. Considering the aforesaid submissions, this Court is inclined to grant interim relief to the applicants for the following reasons:-

- a. The applicants have placed on record statements of bank accounts to indicate that between 12.08.2023 and 05.10.2023 when boxes of the aforesaid fruits were made available by the applicants, specific amounts were transferred into the account of the informant. According to the applicants, after taking their 7% commission, amount of Rs.37,00,000/- was due and that the amounts paid from time to time to the informant come to a total of Rs.37,00,000/-;
- b. The grievance of the informant as reflected from the statement, leading to registration of the FIR shows that according to the informant, a much larger amount was due from the applicants and that further amount of Rs.37,66,118/- was required to be paid. In the absence of any written agreement on which the informant can rely, *prima facie*, the dispute appears to have the colour of a commercial / civil dispute;

- c. Today, the investigation papers are not available to support the contention raised by the learned APP that the applicants are habitual offenders. The nature of the other cases registered against the applicants will have to be perused to appreciate the said contention in its entirety;
 - d. The applicants are ready to co-operate with the investigation.
7. In view of the above, the following interim order is passed:-
- A. Till the next date, in the event the applicants are arrested in connection with FIR No.381 of 2024 dated 23.06.2024 registered with Panchvati Police Station, District - Nashik, they shall be released on bail on furnishing PR Bond of Rs.50,000/- [Rupees Fifty Thousand only] each with one or two sureties in the like amount;
 - B. The applicants shall appear before the investigating officer on 09.08.2024 between 10:00 a.m. and 12 noon and thereafter as and when called by the investigating officer;
 - C. The applicants shall co-operate with the investigation;
 - D. The applicants shall not influence the informant, witness or any person concerned with the case and they shall not tamper with the evidence.
8. Needless to say, violation of any of the aforesaid conditions may result in this order being recalled.
9. List the application for further consideration on 11.09.2024, H.O.B.

(MANISH PITALE, J.)