

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

ANTICIPATORY BAIL APPLICATION NO.3104 OF 2024

1. Chhaganlal Gulabchand Gundesha		
2. Neeraj Chhaganlal Gundesha	...	Applicants
Vs.		
State of Maharashtra	...	Respondent

Mr. Siddharth D. Agarwal a/w Himanshu J. Patil for applicants.

Mr. Sagar R. Agarkar, APP for Respondent-State.

Mr. Amod Ekhaspur for Informant.

Mr. Bhimrao Manjre, PSI, Mundhwa Police Station.

CORAM : MANISH PITALE, J.

DATE : 22nd NOVEMBER 2024

P.C. :

1. Heard Mr. Agarwal, learned counsel appearing for the applicants, Mr. Agarkar, learned APP for the State and Mr. Ekhaspur, learned counsel for the informant.

2. The applicants are apprehending arrest in connection with FIR No.0200 of 2024 dated 17.05.2024 registered at Mundhwa Police Station, District- Pune City, for offences under Sections 406 and 420 read with 34 of the Indian Penal Code, 1860 (IPC).

3. The informant approached the police with a grievance that the applicants entered into transactions with the informant with regard to supply of TMT steel worth Rs.73,96,080/-. It was claimed that although part of the supplies were ensured by the applicants but, thereafter for an amount of Rs.34,35,015/-, the applicants did not supply TMT steel. They issued cheques for refund of the said amount, which were dishonored and when

further request was made for recovery of the amount, they gave evasive answers.

4. Learned counsel for the applicants submits that the dispute between the parties can be said to be a commercial or civil dispute, which is sought to be given the colour of criminality. It is submitted that in respect of a similar FIR, the Sessions Court itself granted anticipatory bail to the applicants on the basis that the dispute appears to be of a civil nature. It was submitted that the applicants are ready to co-operate with the investigating officer, and therefore, the application may be allowed.

5. On the other hand, the learned APP submits that the statement of the informant indicates that the cheques were issued by the applicants, knowing fully well that their account did not have sufficient funds, thereby indicating the dishonest intention on their part. It was submitted that the Sessions Court has made observations in this regard and it is also observed that the applicants failed to abide by conditions that were imposed upon them when anticipatory bail was granted in respect of the similar FIR.

6. This Court has considered the rival submissions in the light of the material on record. A perusal of the statement of the informant itself shows that the transaction was entered into as the informant was aware that the applicants were in the business of supplying TMT steel and that they had been supplying the aforesaid material to certain group companies of the informant. This clearly indicates that the applicants appear to be in the business of supplying TMT steel and *prima facie* it cannot be said

that they gave a false impression to the informant about being in such a business.

7. It is also to be noted that even according to the informant, the applicants did supply TMT steel for an amount of Rs.28,32,849/- but, thereafter for the remaining amount, they could not supply TMT steel.

8. *Prima facie*, such a dispute can be said to be of civil or commercial nature. As regards the cheques issued by the applicants being dishonored, this Court is informed that proceedings under Section 138 of the Negotiable Instruments Act, 1881, have already been filed by the informant.

9. In fact, in the order dated 01.10.2024 passed by the Sessions Court itself, in an anticipatory bail application filed by the applicants in respect of the similar FIR, it was specifically noted that apart from filing cases regarding dishonor of cheques, the informant had also initiated summary suits for recovery of amounts. Therefore, it can be said that the dispute *prima facie* appears to be of civil or commercial nature and to impute dishonest intention, from the inception, to the applicants may not be appropriate in such a case.

10. As regards failure of the applicants in abiding by the conditions imposed by the order dated 01.10.2024, whereby the Sessions Court granted anticipatory bail to the applicants in respect of the similar FIR, there is substance in the contention raised on behalf of the applicants that they sought extension of time to appear before the concerned police station and the investigating officer, as they were apprehending arrest in

connection with the subject FIR.

11. For the above reasons, the application is allowed in the following terms:-

- A. In the event the applicants are arrested in connection with FIR No. 0200 of 2024 dated 17.05.2024 registered at Mundhwa Police Station, District- Pune City, they shall be released on bail on furnishing PR Bonds of Rs.50,000/- each and one or two sureties each in the like amount;
- B. The applicants shall remain present before the investigating officer between 10:00 a.m. and 12 noon on 25.11.2024 and 26.11.2024 and thereafter, as and when called by the investigating officer. They shall co-operate with the investigation;
- C. The applicants shall not influence the informant, witness or any person concerned with the case and they shall not tamper with the evidence.

12. Needless to say, violation of any of the aforesaid conditions would make the applicants liable to face proceedings for cancellation of anticipatory bail. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicants in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

(MANISH PITALE, J.)