



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (ABA) NO.512 OF 2023

(Ahmed Hyder Panjwani and anr. Vs. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.A. Naik, Sr. Advocate a/b Shri J.B. Gandhi, Advocate for the
applicants.

Shri C.A. Lokhande, APP for the State.

Mr. A.S. Samdekar, Advocate for the Intervenor.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- SEPTEMBER 25, 2024.

By this application, the applicant is seeking pre-arrest bail in connection with Crime No.346/2023 registered at police station Ramtek, District Nagpur and same was investigated by the Economic Offence Wing for the offence punishable under Sections 409, 413, 420 and 506 read with Section 34 of the Indian Penal Code.

2. The applicants are apprehending arrest at the hands of police as crime is registered against the present applicants on the basis of report lodged by one Gendlal Raghunath Kuradkar on an allegation that during the Kharip Season of 2021 the complainant and other agriculturist have sold Rice Crop to the applicant's company and accordingly, the company of the applicants have issued a cheque in respect of said purchase. However, the cheques which were presented were returned dishonoured. Thereafter the complainant and other agriculturist tried to contact the applicants; however, the applicants have threatened them. The

present informant as well as other agriculturist have not received the amount towards their agricultural produce which they have sold to the present applicants. Thus, present applicants have committed misappropriation of the amount in respect of the Paddy sold to the present applicants and thereby committed an offence.

3. Learned Senior Counsel for the applicants submitted that the applicants are running the business and they have purchased the Paddy from the informant as well as other agriculturalist for total amount of Rs.11,90,74,366/-. Out of the said amount, the applicants have already paid an amount of Rs.10,01,72,358/-. However, due to the loss sustained by the company due to Covid-19 pandemic situation and as due to the action initiated under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short SARFAESI Act), the present applicants could not pay the amount.

4. Now, the applicants have filed on record the undertaking and undertook that they would repay the remaining amount i.e. the amount of Rs.8,00,000/- on or before 30/11/2024 and remaining amount i.e. Rs.3,04,227/- would be paid on or before 31/03/2025. The said undertaking is taken on record.

5. He further submitted that there was no intention to either dupe the informant or to the agriculturists but due to the financial crisis he could not

pay the amount. In fact, Section 409 of IPC is not attracted as there was no entrustment of any property to the applicants.

6. Learned APP strongly opposed the application and submitted that the amount of the traders is also duped from the present applicants, and therefore, the custodial interrogation of the present applicants is required for recovery of the said amount. He submitted that considering the role played by the present applicants, the application deserves to be rejected.

7. Learned Counsel representing the traders also reiterated the same contentions and submitted that the application for grant of anticipatory bail deserves to be rejected.

8. I have heard learned Counsel for both the parties. Perused the entire investigation papers. As far as the allegation is concerned, there is no dispute that the present applicants have purchased the paddy crop from the informant as well other agriculturist. It is also not in dispute that the substantial amount they have already paid and now they undertook to repay the remaining amount to the agriculturist. Admittedly, this is not a recovery proceeding but considering the nature of the transaction between the agriculturist and the present applicants and it is the applicants who have shown their bonafide by depositing the amount and also shown the readiness to deposit the amount, the said aspect was considered by this Court.

9. Considering the another aspect that custodial interrogation of the present applicants admittedly is not required as entire transaction revolves around the documents. As observed by the Honourable Apex Court in the case of *Ramesh Kumar Vs. State of NCT of Delhi [2023 SCC OnLine SC 766]* wherein the Hon'ble Apex Court has observed that the Court should refrain from imposing conditions for deposit payment as prerequisite for grant of pre-arrest bail. However, as the applicants have shown their willingness to pay the amount and filed on record the undertaking that was accepted by this Court. As far as the traders are concerned there is a business transaction between the traders and the present applicants and the traders can initiate the appropriate proceedings against the present applicants as far as the recovery of the amount is concerned. Now, considering that maximum amount is already paid by the present applicants and remaining amount they are ready to pay. As far as their custodial interrogation is concerned which is not required. In view of that, the interim protection granted to the present applicants deserves to be confirmed. Accordingly, I proceed to pass the following order:

- (i) The application is allowed.
- (ii) In the event of arrest, the applicants by name 1) Ahmed Hyder Panjwani and 2) Suhail Nuruddin Rana in connection with Crime No.346/2023 registered at police station Ramtek, District Nagpur for the

offence punishable under Sections 409, 413, 420 and 506 read with Section 34 of the Indian Penal Code, be released on anticipatory bail on executing PR. Bond in the sum of 25,000/- (Rs. Twenty five thousand) each with one solvent surety each, in the like amount.

(iii) The applicants shall observe the terms and conditions which are mentioned in their undertaking and shall deposit the amount as per the schedule which is given before the Court.

(iv) The applicants shall attend the Economic Offence Wing office as and when required for the investigation purpose. The Investigating Officer shall issue notice in advance to the applicants, if their presence is required for the investigation purpose.

(v) The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case and shall not tamper the prosecution evidence.

10. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)