2025:BHC-AUG:4212

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

956 ANTICIPATORY BAIL APPLICATION NO. 139 OF 2024

DEVIDAS KHANDU NERKAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER
...
Advocate for Applicant : Ms. Devika Patil h/f. Mr. N.L. Chaudhari
APP for Respondents 1 & 2 : Mr. A.A.A. Khan
Advocate for assisting APP : Mr. G.D. Jain h/f. Mr. R.R. Raghuwanshi
...
WITH
ANTICIPATORY BAIL APPLICATION NO. 452 OF 2024

RAHUL RAJDHAR NIKAM AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER
...
Advocate for Applicant : Ms. Devika Patil h/f. Mr. N.L. Chaudhari
APP for Respondents 1 & 2 : Mr. A.A.A. Khan
Advocate for assisting APP : Mr. G.D. Jain h/f. Mr. R.R. Raghuwanshi
...

WITH
ANTICIPATORY BAIL APPLICATION NO. 451 OF 2024

DEVIDAS KHANDU NERKAR AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER
...
Advocate for Applicant : Ms. Devika Patil h/f. Mr. N.L. Chaudhari
APP for Respondents 1 & 2 : Mr. A.A.A. Khan
Advocate for assisting APP : Mr. G.D. Jain h/f. Mr. R.R. Raghuwanshi
...

CORAM : ARUN R. PEDNEKER, J.
DATE : 07.02.2025

PER COURT :

1. Heard the learned counsel for the applicants, the learned APP for the respondents-State and Mr. G.D. Jain h/f. Mr. R.R. Raghuwanshi, learned advocate assisting APP.

2. The applicants are apprehending arrest in connection with Crime No.

18/2024 dated 5.1.2024 registered with Nandurbar City Police Station, District Nandurbar for the offences punishable under sections 420, 406 r/w. 34 of I.P.C. **& Crime No. 153/2024, dated 08.02.2024 registered with Nandurbar City Police Station, District Nandurbar for the offences punishable under Sections 420, 406, 467, 468, 471 r/w. 34 of the Indian Penal Code.**

3. This Court vide order dated 25.1.2024 has granted interim protection to the applicant. Thereafter, the matter was extensively argued on 27.1.2025 and in the order dated 27.1.2025 submissions of both the parties are recorded as under :-

> "1. The case against the applicants is that they cheated the farmers by accepting various amounts from them towards the sale of two plots. The applicants allegedly took money in small installments over the period from 2016 to 2022. However, as they were unable to complete the sale deed, having already sold the plots to someone else, they returned the money using old cheques from HDFC Bank. It is further alleged that they took back all the account books where the payments made to the applicants were recorded. The cheques issued by the applicants to the informant were dishonored by the bank due to insufficient funds in the account. Consequently, offences under Section 138 of the Negotiable Instruments Act and Section 420 of the Indian Penal Code have been registered.
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> 2. The learned Counsel for the applicants submits that no amounts were received by the applicants between 2016 and 2022. If such amounts had been received, appropriate entries would have been maintained by at least one of the applicants. However, there is no evidence or document available indicating deposits made towards the purchase of the plots during this period, nor any agreement to sell the said plots. The Counsel further states that the cheques in question were issued to an erstwhile partner, Mr. Bafna, as a security measure for the same property. He claims that disputes arose between the applicants and Mr. Bafna, who

> allegedly misused the cheques by passing them on to various informants to fabricate a case. The Counsel submits that, as of today, the said plots in the name of Mr. Bafna, although they were sold to Mr. Jain by the applicant. He argues that the matter is a civil dispute between the applicants and Mr. Bafna, and the cheques in question, which date back to 2015 or 2016, have been misused by Mr. Bafna.
>
> 3. Per contra, the learned APP points out that multiple purchasers have suffered financial losses. It is also stated that these purchasers are provided books of accounts showing the money given to the applicants, and it was on this basis that the applicants issued the cheques, by taking the books back from the purchasers."

4. On 27.1.2025, the learned counsel for the informant sought time to verify and produce the record, if available, showing that any of the applicants maintained books indicating advances received from the informants/ purchasers.

5. Today, the learned counsel for the informant submits that there is no such record available.

6. Considering that there is no evidence available on record to show that during the period between 2016 to 2022 the complainant has made part payment to purchase the plots from the applicants nor executed any agreement to sell of the said plots and considering that the cheques in questions were issued to an erstwhile partner, Mr. Bafna, as a security measure for the same property and that there is some dispute between the applicants and Mr. Bafna and considering all these aspects as there is no prima facie evidence as regards the allegation against the applicants that they have cheated the farmers by accepting amounts towards the sale of plots, the interim protection granted on 25.1.2024 can be confirmed.

7. In view of the above, the applications are allowed and the interim protection granted on 25.1.2024 **and 19.03.2024** is confirmed on the following terms :

i] The applicants shall attend the police station as and when required.

ii] The applicants shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses and other persons concerned with the case.

iii. The applicants shall co-operate with the investigation and also in the proceedings before the trial Court.

8. In the event, the applicants violate any of the conditions specified in this order, it shall be liable to be cancelled.

9. It is also clarified that the observations made in this order are limited to the disposal of the present anticipatory bail application and the trial Court shall proceed further in the matter without being influenced by the observations made hereinabove.

10. The applications stand disposed of.

[ARUN R. PEDNEKER, J.]

SSC/

This order is corrected vide order dated 13.02.2025