



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

937 ANTICIPATORY BAIL APPLICATION NO. 2036 OF 2024

BHAVYA NAYAK W/O SHIVANA GOUDA NAYAK AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. Bhandari Anand P.
APP for Respondents 1 & 2 : Mr. B.B. Bhise
Advocate for assisting APP : Mr. D.A. Madake
...

CORAM : ARUN R. PEDNEKER, J.

DATE : 13.02.2025

PER COURT :

1. Heard the learned counsel for the applicants, the learned APP for the respondents-State and Mr. D.A. Madake, learned advocate assisting APP.
2. The applicants are apprehending arrest in connection with Crime No. 390/2024 dated 20.10.2024 registered with Dharangaon Police Station, Dharangaon, Tal. Dharangaon, Dist. Jalgaon for the offences punishable under sections 420 r/w. 34 of I.P.C.
3. This Court by order dated 13.12.2024 has granted interim protection to the applicants, by considering the submissions in para Nos. 4 to 6, as under :-

"4] It is the case of the prosecution that since the year 2007 informant is running cotton ginning business. It is alleged that in the year 2022 one agent placed order of 110 cotton bales for Ranjita Enterprises, Raichur and accordingly informant sent the goods amounting to Rs.46,97,481/- and asked the agent to deposit the amount in bank account. Again order of 100 cotton bales for Pioneer Enterprises Raichur was placed by that agent. The informant again sent goods amounting to Rs.39,99,297/-. The informant asked the agents to pay the amount in respect of supplied goods. The agent replied that the amount will be deposited after the delivery of goods. The informant demanded for outstanding

amount to the agent repeatedly, but the amount is not paid. Therefore, informant lodged the F.I.R.

5] From the submissions of the parties it appears that the applicant are the agents through whom the goods are routed through to Shakti Ganesh Ltd. It is also submitted that the applicants have invoked Insolvency provisions against Shakti Ganesh Ltd. for recovery of outstanding dues. The applicants are not in receipt of the amount from Shakti Ganesh and as such they are not able to make payments to the informant. It is the submissions of the applicants that they are only entitled to certain percentage of commission of sale made to Shakti Ganesh Ltd.

6] Considering the above, the Investigating Officer to verify whether the Shakti Ganesh Ltd. has made payments to the applicants towards the cotton bales purchased from the informant through the applicants. On verification, Investigating Officer to give necessary instructions to the APP."

4. In pursuance of the interim order of this Court, the investigation was further carried out by the Investigating Officer. It is brought to my notice that the goods were supplied to Shakti-Ganesh Ltd. through the applicants and the applicants have not received the amount from Shakti-Ganesh Ltd. As such, the learned counsel for the applicants submits that the applicants were not able to make payment to the complainant.

5. Notwithstanding the same, the learned counsel for the applicants, to show the bonafides of the applicant, on instruction, submits that the applicants would deposit 25% of the outstanding amount in the account of the informant and thereafter on receipt of amount from Shakti-Ganesh Ltd. the applicants would make payment of the balance amount to the informant. The learned counsel also submits that, in the insolvency proceeding filed against Shakti-Ganesh Ltd. certain properties are put up for

auction and there is possibility that the applicants may receive some amount and accordingly, the applicants would pay the amount to the complainant.

6. In view of the above submissions of the learned counsel for the applicants and considering the nature of dispute, the interim protection granted on 13.12.2024 can be confirmed.

5. In view of the above, the application is allowed and the interim protection granted on 13.12.2024 is confirmed on the following terms :

i] The applicants would deposit 25% of the outstanding bill amount dues as quoted in the F.I.R. within a period of four weeks from today.

ii] The informant to give necessary bank details to the applicants within one week from today.

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

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

v] The applicant shall co-operate with the investigation and also in the proceedings before the trial Court.

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

7. 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.

8. The application stands disposed of.

[ARUN R. PEDNEKER, J.]

SSC/