



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

933 ANTICIPATORY BAIL APPLICATION NO. 504 OF 2025
WITH
CRIMINAL APPLICATION NO. 1441 OF 2025 IN ABA/504/2025

BALAJI EKNATH KOYALE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. P.P.More
APP for Respondents 1 & 2 : Mr. G.O. Wattamwar
Advocate for assisting APP : Mr. D.R. Jethliya
...

CORAM : ARUN R. PEDNEKER, J.

DATE : 02/05/2025

PER COURT :

1. Criminal Application No.1550/2025 filed for assist to APP is allowed and Mr. D.R. Jethliya, learned advocate is permitted to assist APP.
2. Heard the learned counsel for the applicant, the learned APP for the respondents-State and Mr. D.R. Jethliya, learned advocate assisting APP.
2. The applicant is apprehending arrest in connection with Crime No. 76/2024 dated 6.3.2024 registered with Majalgaon City Police Station, Dist. Beed for the offences punishable under section 406, 409, 420 r/w. 34 of I.P.C.
3. The case against the applicant in the FIR is that informant runs Adat Shop at Majalgaon. Informant received phone call from applicant for purchasing Tur and Chana pulses. When the informant disclosed the applicant about the availability of the same, the applicant sent one Yogesh Hande Patil on the next date for verification of the quality of the goods. After verification the applicant instructed the informant to send 121 quintals and 50 k.g. Chana worth Rs. 7,42,200/- and 25 tones of Tur worth Rs.

25,37,565/- by preparing a bill in the name of Maheshwari Pulses, MIDC, Latur and the applicant also assured the informant to make payment by RTGS as soon as goods are received. Accordingly, the informant sent the above goods to the applicant by the truck belonging to Marathwada Transport. The driver was Rahimoddin Shaikh. On next day the informant received phone call from driver of the truck that the goods are dumped down after its weight was ascertained near the weighing station located at Vyankatesh Weigh Bridge, MIDC, Latur. When informant asked why the goods were not taken to Maheshwari Pulses, the driver replied that as the goods are to be taken for cleaning the same are being crossed. Immediately thereafter when the informant made phone call and asked the applicant about the same, he replied that the goods are shifted in another truck for cleaning and the applicant assured to make payment of the said goods by evening. However, no payments are made by the applicant to the informant in respect of above goods. As such, the FIR is registered against the applicant.

4. The learned counsel for the applicant submits that this is entirely concocted story and there is no evidence on record to show that goods are delivered to the applicant and thereafter no payment is made. The learned counsel further submitted that it is unbelievable that such a large quantity of goods could have been transferred in other truck. The learned counsel submits that in any event, this is a purely civil dispute. Relying on the judgments of Hon'ble Supreme Court in the case of **Sarabjit Kaur Vs. State of Punjab and Anr. Reported in 2023 (5) SCC 360** and in the case of **Ahsok Kumar Jain Vs. The State of Gujarat and Anr. In S.L.P. (Criminal) No. 1850/2022 dated 1.5.2025**, the learned counsel submits that in any event

non payment for goods received would fall in the category of civil dispute and no criminal action can be taken.

5. Per contra, the learned APP as well as the learned advocate assisting APP submits that the goods are taken out from the informant by deceiving him and by transferring the said goods in another truck, all the goods are siphoned off. The goods are not traceable nor payment is received for the same and as such, prima facie offence of cheating is made out against the applicant. The learned APP points out that there are similar six other offences registered against the applicant in the State of Karnataka and State of Maharashtra.

6. Considering the above submissions and material on record and considering the antecedents against the applicant, at this stage, the transaction cannot be said to be of civil nature. Through investigation in the matter is required and the goods are required to be traced and recovered. No case is made out for granting relief of anticipatory bail in favour of the applicant. Hence, the application is dismissed.

7. It is clarified that the observations made in this order are limited for the purpose of disposal of the present anticipatory bail application and the trial Court shall not be influenced by the observations made hereinabove.

8. The application stands disposed of.

[ARUN R. PEDNEKER, J.]

SSC/