



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION(ABA) NO. 295 OF 2025

Mahesh Pandurang Nighot Vs. State of Maharashtra

Office notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's Orders.
or directions and Registrar's orders.

Mr. A.A.Dhawas, counsel for the applicant.
Mr.D.V.Chauhan GP a/b Mr. Anant Ghogare, APP for the
State,
Mr.R.P.Joshi, counsel to assist the Prosecution.

CORAM : MRS. VRUSHALI V. JOSHI, J.

DATE : 29/09/2025

1) Apprehending the arrest at the hands of Police in connection with Crime No.805 of 2024, registered with Police Station Sitaburdy, Nagpur, District Nagpur for the offence punishable under Sections 420 and 406 r/w Section 34 of the Indian Penal Code, the applicant approached this Court for grant of per-arrest bail.

2) On behalf of Chaitanya Enterprises, the present applicant has informed the partner of complainant namely, Suyash Narvade that Chaitanya Enterprises has received from the Government the plantation work of Samrudhhi Mahamarg for an amount of Rs.4,233.90/-lakhs. The applicant has also shown the partner of complainant pre-bid

letter received in June 2021. The work under MSRDC was not allotted to the said firm.

3) The owner of Chaitanya Enterprises, Sau Aparna Nighot and the present applicant, who is power of attorney holder committed fraud in Pimpri Chinchwad Mahanagar Palika, Pune and therefore, the Commissioner of Pimpri Chinchwad Mahanagar Palika, Pune by an order dated 16.12.2020 has put Chaitanya Enterprises Firm in black list for a period of three years from the date of the order, still the applicant on the false promises about the work of June 2021 to August 2021 executed the agreement with complainant who is partner of "Acquiree Infrastructure Pvt.Ltd on 23.06.2021 (one of the directors). On 23.06.2021 for the plantation work on the Samruddhi Mahamarg the Chaitanya Enterprises has accepted Rs.1,27,00,000/-and Rs.1,12,19,000/- towards 16% commission. The amount is accepted by DD and RTGS but no work is provided to the complainant and thus cheated him and therefore, the complainant has lodged the report, and on such report, the offences punishable under Sections 420 and 406 r/w 34 of the Indian Penal Code came to be registered.

4) The learned counsel for the applicant has stated that the dispute between both the said firms is of civil nature. Both the parties tried to settle the matter, but the applicant

has made the complaint as the cheques, which were given by the applicant were dishonoured. It is the case of 138 of the Negotiable Instruments Act and colour is given of cheating. Issuance of cheques shows the bonafide intention of the applicant therefore, no crime can be registered against him. There is no cheating. Still the applicant is ready to settle the matter. There is dispute about the amount while settling the matter. Hence, he has relied on the judgment of the Hon'ble Apex Court in the case of ***Satender Kumar Antil Vs. Central Bureau of Investigation and anr reported in (2021) 10 SCC 773***, wherein the categories and types of offences are given. He has stated that as per the notification, where the offence is punishable with imprisonment for a terms which may be less than seven years or which may extend to seven years. The notice under Section 41-A (New Section 35 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)) is required to be issued. Hence no need to arrest the applicant.

5) The another judgment on which the applicant is relying is *Criminal Appeal arising out of SLP (Cri.) No.14423 of 2023 (Jay Shri and anr. Vs. State of Rajasthan)*. It is also about the settlement, if the dispute is of civil nature.

6) The learned Government Pleader has opposed the application and stated that from the inception, the intention was of cheating the complainant. He was aware about the black listed for three years and will not get the work, but has accepted the huge amount and now is denying to return the said amount. Some of the amount is though returned, which pertains to some other contracts.

7) The learned APP has relied upon the judgment of ***Anna Waman Bhalerao Vs. State of Maharashtra in Criminal Appeal No. 4004 of 2025 (arising out of SLP (Cri.) No.11128 of 2025)***, wherein the Hon'ble Apex Court has observe that:-

“14. Although there has been a long delay in the initiation of proceedings, the gravity of the allegations, the alleged abuse of official position, and the prima facie findings of the High Court that custodial interrogation is necessary, cannot be diluted merely on the ground of delay. Even in a case based largely on documentary evidence, custodial interrogation may be essential to trace the chain of transactions, ascertain complicity, and prevent further suppression or tempering of records. Moreover, the appellants, despite enjoying interim protection for nearly six years, did not extend due cooperation to the investigation. In these circumstances, we see no reason to interfere with the judgment under challenge.”

8) Hence, prayed to reject the application.

9) The learned counsel appearing for the victim has relied on the judgment in the case of *P. Krishna Mohan Reddy Vs. State of Andhra Pradesh* reported in **2025 SCC OnLine SC 1157**. It is observed that:-

“The petitioners might have been cooperating with the investigation and they have been interrogated also by the investigating agency so far but, at the same time, we should not overlook the fact that by grant of anticipatory bail, we may come in the way of the investigating agency if at all it wants custodial interrogation”.

10) Heard the learned counsel appearing for the applicant, the learned APP and the learned counsel assisting the prosecution.

11) It appears from the record that since inception, the intention of the applicant was to cheat knowingly, he has accepted the amount. He was aware of the fact that he is blacklisted by the Pimpri Chinchwad Mahanagar palika and he could not get the work order of plantation of Samrudhhi Mahamarg. He has accepted the huge amount from the applicant and when the applicant asked her to return the amount, has given the cheques knowing that the accounts were closed. It clearly shows that he has intention not to

return the amount and knowingly accepted the amount. Though, the applicant has relied on the judgment of Hon'ble Apex Court about the nature of Civil dispute it appears that though the agreement is there, it is not the case of civil dispute. The applicant has cheated the complainant and accepted the amount. No case is made out to protect the applicant by granting anticipatory bail.

12) The applicant has relied on the judgment of *Satender Kumar Antil Vs. Central Bureau of Investigation and anr.* (supra) showing mandatory provision of issuance of notice under Section 41-A of Criminal Procedure Code. The applicant has already received the notice by the police after the registration of the crime. Hence there is not question of non compliance of the said provision Hence, the application is rejected. The protection, which is already granted stands vacated.

13) Criminal Application stands disposed of.

JUDGE