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

**CRIMINAL APPLICATION (ABA) NO. 633 of 2025**
(Umesh Rai Jadhav Vs. State, thr PSO, PS Koradi, Nagpur City, Dist. Nagpur)

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| *Office Notes, Office Memoramda of Coram, appearances, Court's orders of directions and Registrar's Orders.* | *Court's or Judge's orders.* |
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Mr. Ram Karode, Advocate for applicant.
Mr. C.A. Lokhande, APP for non-applicant/State.
Mr. M.P. Suryawanshi, Advocate to assist the prosecution.

**CORAM: RAJNISH R. VYAS, J.**
**DATE: 07.05.2026**

Heard.

2. Apprehending arrest, the applicant Umesh, who is shown as accused no. 2 as a owner of one Varad Enterprises, has approached this Court.

3. The First Information Report (FIR) No. 242/2025, dated 24.6.2025, was registered with Koradi Police Station, Nagpur City Nagpur, for commission of the offences punishable under Sections 3(5), 318(4) and 316(2) of the Bharatiya Nyaya Sanhita, 2023.

4. The informant of crime is one Naresh Ugemuge, who was working as a Senior Officer of Mahila Arthik Vikas Mahamandal, Nagpur (for short, "Board").

5. In short, it is a case of the prosecution, that in order to provide training and employment to 200 women, the said Board, through District Industrial Committee (for short, "Committee") had sanctioned the proposal. For that matter, by contacting Grampanchayat Koradi and apprising it about the project, within the

premises of the temple, the property was taken on rent.

6. It was alleged in the FIR that with the assistance of the accused No.1 Nivedita Nahar of M/s. Social Buffet, Pune, for the said project, an amount of Rs. 406.38 lakhs was sanctioned by the Committee. After getting sanction for the first installment of Rs. 350 lakhs, a tender notice was issued on the portal of the Government for purchasing the machinery and other articles.

7. According to the case of the prosecution, an agreement was entered into between accused no.1 for providing training to 200 women. Various machineries and articles were supplied through the accused no. 2/ applicant which were purchased through the Board from the applicant. It was alleged that those machineries were then handed over by the applicant to the accused no.1.

8. As alleged in the FIR, when the unit was visited, it was found that the machines which were supplied, were of different specification which fact was informed to the applicant. Accordingly, on 28.4.2025, in presence of the representatives of M/s. Social Buffet and Varad Enterprises, gave a written undertaking that machines would be provided by 20.5.2025. It was then alleged in the FIR that inspite of the same, again, the applicant has informed that machines would be provided till 10.6.2025. In the FIR, it was stated that out of 227 machines, 174 machines and the material was found and the cost of 174 machines was 87,95,700/-. It was found that the applicant along with the co-accused had done misappropriation of aforesaid amount. It is this information which triggered registration of the FIR.

9. The learned counsel for the applicant has argued as under:

i) The dispute is of civil nature;

ii) The agreement was entered into between the Board and Varad Enterprises and terms and conditions of which shows that the penalty can be imposed, in case, the machines are not supplied;

iii) The applicant has handed over the entire material to the accused no.1 which is clear from the communication which is produced on record;

iv) The judgment in case of ***Shailesh Kumar Singh alias Shailesh R. Singh Vs. State of Uttar Pradesh and ors (2025 SCC OnLine SC1462)***, more particularly, paragraphs 9 and 10 were relied upon to buttress the contention that there has to be something more than a prima facie case on record to indicate that intention of accused was to cheat the complainant right from the inception; and

v) Custodial interrogation of the applicant is not necessary.

10. Per contra, the learned APP has argued as under:

i) Prima facie case is made out;

ii) The accused nos. 1 and 2 have systematically cheated the Government;

iii) The investigation is required to be carried out as huge Government amount of Rs. 86 lakhs.

11. With the able assistance of the learned counsels for the respective parties, I have gone through the record of the case.

12. It has come on record that in order to provide training and employment to 200 women, so also, with a view to purchase the material, the substantial amount was sanctioned. The applicant had participated in the tender process and was L-1. The applicant has

claimed to have supplied the material i.e. 227 Jack Direct Drove Single Needle Machines and other material as per the document i.e. Delivery Memo and handed over it to accused no1 by communication dated 16.12.2024. It was on 28.4.2025, when inspection was done by the Committee, it was found that out of 227 machines, only 103 machines were available on the spot and out the said 103 machines, 53 machines were new and 50 were old. Thus, it is crystal clear that the applicant had not only supplied the less machines but also the machines which were old also.

13. The question is whether the applicant was developing fraudulent intention from initial stage or not is required to be tested prima facie, from the material brought on record. It cannot be ignored that the applicant has not only supplied less machines but also supplied old machines. There is absolutely nothing brought on record to show as to why the agreed machines were not supplied and old machines were forwarded. Thus, the fraudulent intention from initial stage of the applicant is crystal clear.

14. The applicant Nos. 1 and 2 have acted with a common intention and have cheated the Government. Though, it is argued that the applicant no.1 is released on anticipatory bail, same would not be helpful for the applicant since, the role of applicant and co-accused was totally different. Co accused Nivedita/accused no.1 was not the person who was under an obligation to supply the machines for the project. She was to provide training to the women under the project. She had no role in handing over or delivering the machines. Thus, parity cannot be claimed by the applicant.

15. Coming to the role of the present applicant, it can be said that prima facie case is made out against the applicant. The matter

cannot be called as a contractual or the civil dispute since, from initial stage only, the applicant was developing fraudulent intention. The terms and conditions of the agreement which were relied upon by the applicant, would not be a ground enough to grant anticipatory bail as the total machines required to be supplied were 227 and what was supplied was 103 machines only, out of which 50 were old. Thus, the dispute is not of civil nature but has a criminal element. The charge sheet in the matter is yet to be filed. The investigation is at primary stage.

16. So far as the observation of the Hon'ble Apex Court in case of of ***Shailesh Kumar Singh alias Shailesh R. Singh Vs. State of Uttar Pradesh and ors***, cited supra, is concerned, the Hon'ble Apex Court was dealing with a petition filed under Article 226 of the Constitution of India for quashment of the FIR. The Hon'ble Apex Court has observed that there was oral agreement between the parties. It is in that background, the Apex Court has observed that for determining the applicability of offence of cheating what is required to be seen is as to whether the accused was developing fraudulent intention from initial stage or not. Thus, the judgment cited is not applicable to the case in hand.

17. In fact, the material on record shows that the applicant was developing fraudulent intention from initial stage. As prima facie case is made out, I am not inclined to allow the present application. Hence, the application is rejected.

**(RAJNISH R. VYAS, J.)**

Belkhede, PS