

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 612 OF 2015

Farhan Jilani Kokani. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Gajendra K. Jadhav, advocate for Applicant.

Ms. R.M. Gadhavi, APP for State.

Mr. Sudhir Sambardekar, Sr. Police Inspector and Mr. Valmik Kore,
PSI of Nirmal Nagar Police Station.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : JUNE 30, 2015

P.C.:

1 Heard the learned Counsel for the applicant and the learned
APP for State. Perused the papers.

2 This is an application under Section 438 of the Code of Criminal
Procedure, 1973. The applicant herein is apprehending his arrest in
Crime No. 165 of 2014 registered at Nirmal Nagar Police Station,

Mumbai for offence punishable under Section 406 of the Indian Penal Code.

3 Today the learned APP has filed on record the report of the police station pursuant to the order dated 23/6/2015 passed by this Court. It is submitted by the learned APP on instructions that the clerk of the police station had inadvertently not taken copy of the FIR to the concerned court. The Senior Officer of Nirmal Nagar Police Station is present in the court and makes a statement that in future the said police station would comply with the mandate of Section 157 of the Code of Criminal Procedure, 1973. The report is taken on record and marked as Article -X for the purpose of identification.

4 The learned APP submits that the applicant had attended the police station only once, but had expressed his inability to give a statement on the same day and had asked for time, however, did not report to the police station thereafter. Learned Counsel for the applicant submits that the applicant is a resident of Nashik and that

due to heavy rain, he could not attend the said police station thereafter.

5 This Court had recorded in paragraph-4 of the order dated 23/6/2015 that there is a dispute between the complainant and the applicant. Initially the complainant had given a written report to the said police station on 26th March, 2014 and requested the police station to recover the amount. There was a memorandum of understanding executed between the complainant and the present applicant. No offence was registered atleast till 19th June, 2014.

6 The learned Counsel for the applicant submits that this is a private transaction between the complainant and the applicant. The complainant has received Rs. 2 lakhs from the applicant and the complainant is seeking to recover the amount of Rs. 6 Lakhs. The complainant and the applicant are in the process of executing as well as acting upon the memorandum. The applicant herein had specifically stated that it was brought to the knowledge of the

complainant that the vehicle is in the custody of Rashid Shaikh. This Court had also observed that it is a private transaction.

7 Learned APP submits that the applicant has similar antecedent. As against this, the learned Counsel for the applicant submits that it is an admitted position that he was giving cars on rent. Learned Counsel for the applicant as against this has placed on record the order dated 25/2/2015 passed in Writ Petition No. 321 of 2015 where C.R. No. 348 of 2012 registered at Khar Police Station was quashed by this Court by consent of both the parties. In view of this, the said C.R. cannot be considered as a criminal antecedent.

8 In the present case also, the applicant had made efforts to work out an amicable settlement and in the said process had paid Rs. 2 Lakhs to the complainant, which is admitted by the complainant in this court. In view of the above facts, the applicant deserves pre-arrest bail. However, the applicant is directed to attend the concerned police station from 1st to 8th July, 2015 on every alternative

day between 10 a.m. to 1 p.m. and cooperate with the investigating agency to the best of his capacity.

9 The observations made hereinabove are prima facie in nature. The same shall not be considered while deciding application for discharge or quashing of FIR or at the time of hearing. The concerned Trial Court shall decide the matter uninfluenced by the above observations in accordance with law.

10 Hence following order is passed.

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- and one or two sureties in the like amount.
- (iii) The applicant shall report the concerned police station from 1st to 8th July, 2015 on every alternative day between 10 a.m. to 1 p.m.

and cooperate with the investigating agency to the best of his capacity.

11 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)