

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1206 OF 2016

Sagar Omnarayna Mishra .. Applicant
Versus
The State of Maharashtra .. Respondent

Mr.Ashutosh Tripathi i/b Legal Point for the applicant.

Mr.H.J.Dedhia, APP for the Respondent State.

CORAM : PN. DESHMUKH, J

DATED : 5th AUGUST 2016

P.C. :

1 Heard learned counsel for both the sides.

2 Perused the case diary made available by learned APP. This application is filed by accused Sagar Mishra, apprehending his arrest in Crime No.50 of 2016 registered by Byculla Police Station on 13th February 2016 for the offence under Sections 420, 120, 171 of the IPC.

3 According to learned counsel for the applicant, he is falsely involved, and at no point of time, had pretended complainant that he is an Army man. In that view of the matter, applicant is praying for protection of bail before arrest.

4 Learned APP, on the other hand, has opposed the application submitting that applicant has cheated Ismail Shaikh – original owner of vehicle bearing Registration No.MH-49-B-787. After agreeing to purchase above numbered vehicle from Ismail Shaikh for Rs.8,25,000/- as he made payment of Rs.40,000/- in cash and had issued cheque in respect of balance amount of Rs.6,99,000/-, and has obtained possession of this vehicle. However, the cheque came to be dishonored.

5 It is the case of prosecution that applicant after coming in possession of vehicle as above, agreed to sell it to complainant Javed Khan. However, in spite of receipt of amount of Rs.5,00,000/- (Rupees Five Lakhs) did not give physical possession of vehicle on false pretext, and in the mean time, sold said vehicle to one Sakharam Chaudhary who paid Rs.5,00,000/- to applicant. It is also the case of prosecution that the Investigating Officer has made inquiry with the Officers of Indian Army and are informed that there is no Officer in the name of applicant serving in Indian Army. It is therefore, submitted that since investigation is in progress and Custodial Interrogation of applicant is necessary, application be rejected.

6 On perusal of complaint dated 13th February 2016 by complainant Javed Khan, it reveals that on 30th January 2016 he has filed report with Byculla Police Station against the applicant in respect of fraud played upon him by applicant and about his cheating with regard to vehicle bearing registration No.Mh-49-B-787. It is stated in the report that on 30th December 2015, complainant came across one advertisement on OLX with

reference to above numbered vehicle and applicant posed himself as owner thereof though, said car in fact, is owned by one Ismail Shaikh. From the report, it further reveals that on the cell numbers in the advertisement, complainant contacted applicant and agreed to purchase said vehicle for Rs.5,00,000/-. On personal conversation with applicant, he introduced himself to be in Indian Army working in 10/12 Battalion of Commando Brigade as Major, and also informed that as he was transferred, he wanted to sell his vehicle.

7 Relying upon the applicant, complainant thus met him and after verifying the vehicle at Borivali on 31st December 2015, had sent said amount of Rs.5,00,000/- by RTGS which was credited in the account of applicant. It is further stated that after receipt of said amount, applicant saying that he needs some time to remove the Army monogram, Siren, Picon light etc. from the vehicle as he wanted to deposit these articles back with the Department, asked for some time to deliver the vehicle. However, thereafter on one or other pretext did not deliver the same till 16th January 2016, and from 17th January 2016, though complainant attempted to contact on the cell number, his calls were not received, and he thus lodged the report.

8 On perusal of case diary, there is ample material found to be collected during the course of investigation. From the bank statement of complainant as well as that of applicant, transaction as aforesaid, are found substantiated. No explanation is put forth on behalf of applicant as to under what circumstances, and through what source amounts came to be deposited in his

account through RTGS. Similarly, it is noted that the original owner of vehicle i.e. Ismail Shaikh has reported the matter to Mira Road Police Station on the basis of which offence is registered, and during the course of investigation in the said crime, statement of one Sakharam Chaudhary is recorded who has stated that same vehicle was also sold to him by applicant, and he has paid amount of Rs.5,00,000/- to him and that the vehicle came to be seized from his possession under panchnama.

9 Having considering the involvement of applicant, as aforesaid who appears to have cheated more than one person, and has obtained monetary gains running into lakhs of Rupees by selling one vehicle to more than one person and it since also appears to have posed himself as an Army Officer, Custodial Interrogation of applicant is absolutely necessary as there is also possibility of applicant having involved in similar other offences.

10 In that view of the matter, application is devoid of merits.

11 Application is accordingly rejected.

(PN. DESHMUKH, J)