**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CRIMINAL APPELLATE JURISDICTION**

**ANTICIPATORY BAIL APPLICATION NO.134 OF 2017**

Rohidas Rangnath Randive .... Applicant

versus

State of Maharashtra ... Respondent

Mr.Aniket Nikam, Advocate i/b. Chetan S. Damre, Advocate for the Applicant.

Mr.S.H. Yadav, APP for the State/Respondent.

PSI – Mr.Chhabu Bhagchand Berad, Pune Gramin, Baramati Taluka Police Station.

**CORAM : MRS.MRIDULA BHATKAR, J.**
**DATE : 15th FEBRUARY, 2017.**

**P.C. :**

1. The applicant/accused apprehends arrest in C.R.No.592/16 registered with Baramati Taluka Police Station for the offences punishable under sections 42 r/w 34 of the Indian Penal Code.

2. It is the case of complainant Milind Ashok Gaikwad that he is a Cancer patient and he is operated in Tata Memorial

Hospital on 10/05/2016 and therefore he wanted to buy four wheeler car to earn livelihood. On 20/08/2016 his friend Santosh Gulabrao Suryavanshi, who is dealer in sale and purchase of the cars, told him that one Scropio car is for sale at Rediant Honda Showroom, Baramati. Therefore the complainant went there alongwith his friend Santosh Suryavanshi. One Ashish Rajmane showed them the Scorpio car bearing No.MH-12-GR-9617. So he had talk with the owner of the car i.e. the applicant/accused Mr.Rohidas Randive and the co-accused i.e. the father of the present applicant/accused. The price of the car was fixed as Rs.3,50,000/-.

3. The complainant paid Rs.20,000/- in the beginning as earnest money and then he told him that he wanted to take loan. He and his wife Jyoti applied to TVS Finance Services Limited Co. Baramati for loan of Rs.4,00,000/-. Thereafter, complainant alongwith Santosh Suryavanshi approached the applicant/accused, the owner of the car and deposited Rs.10,000/- in his account No.072010110001117. On

31/08/2016 the applicant/accused, handed over the documents to him and by way of security, he took a blank cheque of Shirmant Maloji Raje Sahakari Bank, Baramati. Thereafter he paid insurance of Rs.14,815/-. Thereafter TVS Services Finance Company informed the complainant on 02/09/2016 that his loan was sanctioned. Then complainant phoned applicant/ accused and told him to bring the car and take the money. However, the applicant/accused told him that he was sending his father co-accused Rangnath Randive at Walchand Nagar and asked him to handover the money to him and the car will be delivered afterwards. The complainant alongwith Santosh Suryavanshi and his cousin Ram Gaikwad went to Walchand Nagar.

4. When the complainant asked the co-accused Rangnath Randive for delivery of car, he told him that he must trust him and therefore the complainant handed over him Rs.3,00,000/- cash and informed the applicant/accused about the payment and promised the complainant that he would deliver the car on

the same day. However, the applicant/accused never delivered the car to the complainant, though the complainant requested him on number of times. Thereafter he approached the police and offence was registered on 21/12/2016.

5. The learned counsel for the applicant/accused submitted that the applicant/accused is innocent. It is submitted that the applicant/accused or his father did not receive the amount of Rs.3,00,000/-. However, he admitted that the amount of Rs.10,000/- was only received. He submitted that there is no proof of the payment of Rs.3,00,000/- and the applicant/accused be granted protection.

6. The learned prosecutor opposed the application. He relied on the statement of witnesses Santosh Suryavanshi and also relied on the papers of bank of which the loan was sanctioned and hypothecated documents, original documents and also insurance papers of the insurance company. He also relied on the witnesses before whom the amount was paid. He

further submitted that custodial interrogation of the applicant/ accused is required.

7. Perused the FIR. Perused the statements of Santosh Suryavanshi and Ram Gaikwad. Both the witnesses have stated that cash of Rs.3,00,000/- was handed over towards the price of the car and the promise to deliver the car was given by the father of the applicant/accused. The papers and the statements disclose that, prima facie, the case of the complainant is true. It is to be noted that the complainant is a Cancer patient. The money is required to be recovered from the applicant/accused and hence the custody is required. Hence rejected.

**(MRIDULA BHATKAR, J.)**