

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1723 OF 2017**

Faizan Ismail Masid ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. A. M. Moorthy a/w Mr. M. R. Sodke & Ms. Snehal Chothani i/b Mr. Acharya Manthira MA for the Applicant

Mr. R. M. Pethe, A.P.P for the Respondent-State

HC Mr. A. A. Tadvi from Ganeshpuri Police Station, is present

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 31st AUGUST, 2017

P.C. :

1. Heard learned Counsel for the parties.
2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. I-08 of 2016 registered with the Ganeshpuri Police Station, for the alleged offences punishable under Sections 429 r/w 34 of the Indian Penal Code; Sections 5(a)(b)(c), 9(a)(b), 11 of the Prevention of Cruelty to Animals Act, 1960 and Section 52, 191 of the Motor Vehicles Act.

3. Learned Counsel for the applicant submitted that the applicant has been falsely implicated in the said case. He submitted that admittedly, the applicant was not present at the spot when raid was conducted by the police, on the house of Nadeem Suse. He submitted that it is the allegation of the prosecution, that the vehicle which was found to contain animal skins, belonged to the applicant. He submitted that the said fact, is untrue and that the applicant is not the owner of the said vehicle in which animal skins were found. He submitted that when the applicant learnt about the alleged agreement dated 4th January, 2016, showing that Ashraf Shaikh had sold the vehicle to the applicant, the applicant's mother lodged a private complaint alleging forgery as against Ashraf Shaikh. He submitted that the learned Magistrate was pleased to pass an order under Section 156(3) Cr. P.C., pursuant to which, Ashraf Shaikh was arrested. He submitted that investigation is complete and charge-sheet is filed.

4. Learned A.P.P opposed the bail application. He submitted that the applicant has a similar antecedent of the same year i.e. 2016. He submitted that initially the applicant was arrested in connection with C.R.

No. II-12 of 2016 registered with the Bazar Peth Police Station, Kalyan, Thane, and was thereafter, transferred and arrested in the present C.R.

5. Perused the papers. It is not in dispute that the other two co-accused have been enlarged on bail. It appears that on 2nd February, 2016 at about 5:00 a.m., Police Officer Mr. Bhosale alongwith his staff from Padgha Police Station came to Ganeshpuri Police Station alongwith the accused Ilyas @ Ekka Habib. Thereafter, the complainant-PI Vinod Mhaske and his staff visited the house of Nadeem Suse and found animal skins in the said house. When the house panchanama was going on, two persons were spotted in a pick-up van, who ran on seeing the Police Personnel. The police seized animal skins also from the said pick-up van i.e. Tata Xenon, having no number place. In the course of investigation, the police arrested Ilyas @ Ekka Habib and Nadeem Suse on 15th March, 2016. The applicant was not present at the spot at the relevant time. The allegation is that the vehicle i.e. Tata Xenon-pick-up van belonged to the applicant. Most of the Sections are bailable, except the offences under the Protection of Cruelty to Animals Act. There is no recovery at the instance of the applicant. Whether or not the vehicle belonged to the applicant as is

alleged, which is refuted by the learned Counsel for the applicant, is a matter, which will be decided by the trial Court. Investigation is complete and charge-sheet is filed. Considering the same, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 25,000/- with one or two local solvent sureties in the like amount;
- (ii) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iii) The applicant shall inform his latest place of residence and mobile contact number and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- (iv) The applicant to cooperate with the conduct of the trial.

6. The application is accordingly disposed of.
7. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.
8. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.