

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1758 OF 2017

**MOHAMMED SALIM SHAIKH NASIULLAH)
SHAIKH)...APPLICANT**

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Nitin Sejpal, Advocate for the Applicant.

Ms.Veera Shinde, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 6th OCTOBER 2017

P.C. :

1 The applicant / accused in Crime No.I-57 of 2017 registered with Police Station Thane City, for offences punishable under Sections 420, 465, 468, 471 read with Section 34 of the Indian Penal Code (IPC), by this application is seeking pre-arrest bail.

2 Heard the learned advocate appearing for the applicant / accused. He submitted that infact the applicant / accused came to be misguided by the agent in the course of registration of his motorcycle and the applicant / accused never intended to evade octroi duty payable for purchase of the motor car. The learned advocate for the applicant / accused further argued that infact he attempted to pay, so called evaded octroi duty, to the authorities but they have not accepted the same.

3 I have also heard the learned APP in order to ascertain whether the applicant / accused is one of the members of the gang indulging in evasion of octroi duty. The learned APP submitted that the applicant / accused is purchaser of one car without payment of octroi duty to Municipal Corporation, Mumbai,

4 I have carefully considered the rival submissions and also perused papers of investigation. The crime in question came to be registered on the basis of complaint lodged by an NGO

named "Support" alleging evasion of octroi duty by purchasers of costly motor vehicles. After inquiry, Senior Police Inspector of Crime Detection Branch lodged the First Information Report (FIR) and that is how the applicant is an accused in the crime in question.

5 Papers of investigation show that the applicant / accused has purchased car of Honda City make costing around 7.28 lakh, by evading octroi duty payable to Municipal Corporation of Mumbai. The applicant / accused is a resident of Borivali and therefore, he was liable to pay the octroi duty to the Municipal Corporation of Mumbai. The FIR itself shows that the applicant / accused is liable to pay octroi duty to the tune of Rs.1,09,692/-. The applicant / accused is ready and willing to deposit the same with the concerned authority. In this view of the matter, I am of the opinion, that custodial interrogation of the present applicant / accused is not at all warranted. Therefore the order :

ORDER

- i) The application is allowed.
- ii) In the event of his arrest in Crime No.I-57 of 2017 registered with Police Station Thane City, for offences punishable under Sections 420, 465, 468, 471 read with Section 34 of the IPC, the applicant / accused shall be released on bail on his executing P.R.Bond in the sum of Rs.15,000/-, and on furnishing surety in like amount.
- iii) As a condition of this order, the applicant / accused should deposit evaded octroi duty to the tune of Rs.1,09,692/- with the concerned Officer of the Octroi Department of the Municipal Corporation of Mumbai, Kanjurmarg, Mumbai, within one month from today.
- iv) If the said amount is deposited, the concerned Officer of the Octroi Department of Municipal Corporation of Mumbai, Kanjurmarg, Mumbai, is directed to accept the same.
- v) The applicant / accused shall make himself available for interrogation, as and when required by the Investigating Officer.

vi) The applicant / accused shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the court or to the Police Officer.

vii) The application is disposed of.

(A. M. BADAR, J.)