

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

**BAIL APPLICATION NO.2622 OF 2016
BAIL APPLICATION NO.2623 OF 2016
BAIL APPLICATION NO.2625 OF 2016**

Shaikh Azhar Shaikh Mehtab

.... Applicant/
accused

versus

The State of Maharashtra

... Respondent

Mr.Laxmikant Shrimangale, Advocate for the Applicant in all the applications.

Mr.Rajan Salvi, APP for the State in BA No.2622/16.

Mrs. Rutuja Ambekar, APP for the State in BA No.2625/16.

PI Mr.C.B. Ghante (Barshi Police Station).

**CORAM : MRS.MRIDULA BHATKAR, J.
DATE : 05th JANUARY,2017.**

PC. :

1. All these three bail applications are heard together and disposed of by a common order. All these three applications are made in separate crimes and the applicant/accused is one and the offences committed are of same nature and within a span of one year.

2. The applicant/accused is facing prosecution mainly for the offence of theft of motor vehicles under section 379 of IPC in all the three matters. The complainant in each matter is different. The details of these cases are as follows;

3. In Bail Application No.2622/16 the offence is registered at the instance of one Ashok Ganpat Garad by resident of Barshi that his Splender Plus motorcycle of Hero company was stolen on 05/04/2016, pursuant to which the offence was registered at C.R.No.243/16 under section 379 of IPC. However, when the motorcycle was recovered from accused No.1 i.e. Shaikh Javed Shaikh Mehmood, the number of Chassis was found erased. Therefore offence under section 465 was added. As the involvement of the present accused was also found in the said case, accused was arrested on 04/08/2016.

4. In Bail Application No.2623/16 one offence was registered at the instance of one Girish Mukund Pratape as his Tata Indica motor car of white colour was stolen on 13/01/2016 from Barshi. An offence was registered at C.R.No.35/16. The said

vehicle was recovered on the information given by one witness namely Mubin Abdul Majid Qureshi.

5. In Bail Application No.2625/16 offence was registered at the instance of one Harshal Shashikant Dabhade that his Hero Honda Splender Plus motorcycle was stolen on 31/01/2016, for which his complaint was recorded at Barshi Police Station on 21/06/2016 under C.R.No.246/16.

6. The learned counsel for the applicant/accused has submitted that in the case of Bail Application Nos.2622/16 and in 2625/16, two motorcycles were recovered by the police not from this accused, but from the accused No.1 Shaikh Javed Shaikh Mehmood. The present applicant/accused is innocent and has not committed any offence, much less offence of the theft. He further submitted that offence under section 465 of IPC for which the applicant accused is charged in C.R.No.243/16 is bailable. He submitted that the applicant/accused is earlier prosecuted in C.R.No.155/15. However, he is bailed out by an order dated 28/07/2016. The learned counsel submitted that there is no direct

evidence in all these cases and applicant/accused is arrested only on the basis of suspicion and on the statement of co-accused which is not admissible. The learned counsel further argued that the applicant/accused is a family man having responsibility of looking after his wife and children. He is the sole breadwinner in the family. He is a labourer and poor person.

7. The learned prosecutor in Bail Application No.2622/16 while opposing has submitted that the Hero Honda motorcycle in C.R.No.243/16 was recovered from Shaikh Javed Shaikh Mehmood by police and applicant/accused was arrested on 04/08/2016 in the said offence. He submits that investigation is complete.

8. In Bail Application No.2623/16 the learned prosecutor submitted that the stolen vehicle Tata Indica Car was recovered by police on receiving information from witness Mubin Abdul Majid Qureshi. The learned prosecutor relied on the statement of witness wherein name of the applicant/accused alongwith co-accused is mentioned specifically that they parked the said vehicle

approximately in the month of March-April 2016. The learned counsel opposed the bail application. In Bail Application No.2625/16 the learned counsel has submitted that there are two more cases pending against the applicant/accused i.e. C.R.No.155/15 under section 379 of IPC and in C.R.No.460/16 of Beed Police Station under section 420, 468 and 471 of IPC. It is submitted by the learned prosecutor that the applicant/accused is a habitual offender and he has history of repeating offence of theft of the motorcycle. The learned prosecutor on instructions given by the investigating officers, who are present in the Court, have submitted that in all the three cases charge is framed and trial has commenced. However, this fact is controverted by the learned counsel for the applicant/accused.

9. Perused the FIR in all the three matters. Perused the submissions of the witnesses in Bail Application No.2623/16. In the statement of Mubin Abdul Majid Qureshi he has specifically stated that present applicant/accused alongwith co-accused Nos.1 and 3 approached him with stolen vehicle Tata Indica Car and parked the vehicle with his permission, handed over keys to him

and told that they would pick up the car after few days. Thus, this shows prima facie the association of all the accused in the offence of theft.

10. The submissions made by the learned prosecutor that the applicant/accused is involved in five cases of similar nature has also bearing while deciding the bail application in all these three matters. A statement is made at bar that the trial in all three cases has commenced and therefore the Judicial Magistrate First Class is directed to expedite all the three trials on or before 30/09/2017. Hence all the bail applications are rejected.

(MRIDULA BHATKAR, J.)