IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 403 OF 2018

Shahebaj Nissar Attar ....Applicant
V/s.
The State of Maharashtra ....Respondent

Mr. Chetan G. Patil for the applicant.
Mr. N.B. Patil, APP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.
DATED: 10th SEPTEMBER, 2018.

P.C.:

. This is an application for anticipatory bail under section 438 of Criminal Procedure Code, filed by the aforesaid applicant, apprehending his arrest in C.R.No.24 of 2018 registered with Bundgarden Police Station, District Pune for offences punishable under sections 406, 420, 465, 468, 471 r/w. 34 of the Indian Penal Code.

2. Heard Mr. Chetan G. Patil, learned counsel for the applicant and Mr. N.B. Patil, learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

3. The first informant had purchased a bus bearing No.MH-15-AK-1490 from a Company - Hydropinomatic Engineering Pvt. Ltd. The said

company had given NOC to transfer the registration. The first informant had alleged that the co-accused Sattar Nizam Qazi had introduced him to his friend Rafiq Mulani, a headmaster of Urdu school at Yerwada who was looking for a bus to transport students. The first informant agreed to give the bus on contract basis to Rafiq Mulani on payment of hire charges of Rs.40,000/- per month. On 16/06/2016, the first informant entrusted the bus to Rafiq Mulani. They agreed to enter into an agreement after the transfer of registration in the name of the first informant. The co-accused Rafiq Mulani obtained the signature of the first informant on several forms to be submitted before RTO Pune.

4. The first information report states that on one pretext or the other, Rafiq Mulani did not pay the hire charges for a period of about six months. In January, 2017, Rafiq Mulani gave him a RC book. Since the bus was now registered in his name, he requested Rafiq Mulani to pay the hire charges. Since Rafiq Mulani was evading payment, the first informant got suspicious and checked the records at RTO Pune. He was shocked to know that the bus was registered in the name of the applicant. Upon inquiry, he was informed that the forms signed by him were not submitted in RTO, Pune. He was also informed

that forms 28, 29 & 30 of RTO, Pune were not traceable. He therefore lodged the first information report against the applicant and the co-accused for cheating, breach of trust, falsifying documents etc.

5. Mr. Chetan G. Patil, learned counsel for the applicant submits that the applicant is not involved in forging the documents and that he is a bonafide purchaser. Mr. N.B. Patil, learned APP has countered these submissions by stating that the applicant is also involved in committing the said crime. He submits that there is no *prima facie* material to show that the applicant has paid any money to the co-accused.

6. The records *prima facie* reveal that the applicant had purchased the bus from Rafiq Mulani. They had signed a document dated 06th May, 2016 on a hundred rupee stamp paper wherein there is an acknowledgement that the applicant had paid Rs.8,00,000/- to Rafiq Mulani and the balance amount was to be paid within 30 days after the transfer of the documents in the name of the applicant.

7. It is pertinent to note that the vehicle was registered in the name of the Company - Hydropinomatic Engineering Pvt. Ltd. Though the first informant had purchased the said vehicle and signed necessary

forms, the vehicle was not transferred in his name. The applicant has allegedly purchased the vehicle from a person who was not a owner of the vehicle. There is also nothing on record to indicate that the original owner or the first informant had agreed to sell the vehicle or authorized Rafiq Mulani to sell the vehicle and receive money on their behalf. The applicant has also not been able to show any records regarding withdrawal or payment of Rs.8,00,000/-.

8. In the light of above, *prima facie*, the applicant cannot be said to be a bonafide purchaser but appears to have been involved in commission of the said crime. The records *prima facie* reveal that the vehicle was transferred in the name of the applicant on the basis of forged and fabricated records. The first information report also *prima facie* reveals that forms 28, 29 and 30 are not available or missing from the records of RTO, Pune. This is a serious matter which needs thorough investigation.

9. Under the circumstances, this is not a fit case to grant bail under section 438 of Criminal Procedure Code. Hence, the Anticipatory Bail Application is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)