

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

ANTICIPATORY BAIL APPLICATION NO. 1661 OF 2018

Zahid Abdul Karim Tanwar ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Vikram V. Tarepatil for the Applicant.

Mr. R.M. Pethe, APP for the Respondent/State.

Mr. Rahul D. Atigre, PSI, Nayanagar Police Station, Mira Road.

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CORAM: PRAKASH D. NAIK, J.

DATED: AUGUST 23, 2018

P.C. :

1. This is an application for anticipatory bail in connection with CR No. I-356 of 2018 registered with Nayanagar Police Station, Mira Road for offence under Sections 420 read with 34 of the Indian Penal Code.

2. The First Information Report (F.I.R.) was registered on 22nd June, 2018. The applicant preferred an application for anticipatory bail before the Sessions Court, which was rejected on 14th August, 2018.

3. The case of the prosecution is that in the year 2014, the informant was searching for used four wheeler vehicles. He told his friend Samir Abubakar about it since he was driver and having knowledge about

vehicles. Samir told him that his brother Riyaz is dealing in vehicles and through his brother showed two vehicles viz. Tavera car and Optra car which were available for sale. Samir also represented that, they can purchase the said vehicles and sell the same to other customer and earn profit. The complainant and others went to the concerned shop and finalize price of vehicles as Rs. 3,50,000/- and Rs. 2,25,000/-. The complainant paid Rs. 5,75,000/- to Riyaz. Documents were handed over to the complainant by Riyaz. The complainant then requested Riyaz to transfer vehicle in his name. Initially, Samir drove the vehicle for 15 days and thereafter, he requested to do so. Since, the complainant could not drive vehicle, he told Riyaz and Samir to sell the vehicles. They approached applicant, the owner of Shaan Motors for sale of Tavera vehicle. The complainant then made enquiry with applicant who stated that vehicle is being taken by someone. He gave evasive answer. Riyaz sold the said car to third person. When the complainant demanded amount with him, he kept on making false promises. Thus, he was cheated for Rs. 5,75,000/-.

4. The learned counsel for the applicant submitted that the transaction is of 2014 and the F.I.R. was belatedly lodged in the year 2018. The applicant had not accepted any amount from the complainant. The co-accused had admitted to have taken possession

of the vehicle and they had promised the payment of money to the complainant.

5. Learned APP submitted that the entire transaction is suspicious. The source and make of the car is suspected. The co-accused are not yet arrested.

6. The accused who had participated allegedly in crime are not yet arrested. The amount was not parted to the applicant. The cars were brought by the other co-accused. In the above circumstances, the role attributed to the applicant is that the car was entrusted to him, which was taken away by the co-accused. Admittedly, car was being sold by co-accused to third party and promises were made to return the money. No amount was parted to the applicant. Taking into account the role assigned to the applicant, custodial interrogation of the applicant is not necessary. Hence, this application can be allowed on certain terms and conditions, which are as follows :

ORDER

(i) Anticipatory Bail Application No. 1661 of 2018 is allowed.

(ii) In the event of arrest of the applicant in connection with CR No. I-356 of 2018 registered with Nayanagar Police Station, Mira Road for offence under Sections 420 read

with 34 of the Indian Penal Code, the applicant shall be released on bail on furnishing PR Bond in the sum of Rs. 20,000/- (Rupees Twenty Thousand only) with one or two sureties in the like amount.

(iii) The applicant shall attend Nayanagar Police Station, Mira Road on every Saturday between 10.00 a.m. to 12.00 noon till filing of the chargesheet.

7. Anticipatory Bail Application stands disposed of.

(PRAKASH D. NAIK, J.)