

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1759 OF 2018

1. Aves Jilani Kokani, Age 27 years,
2. Farhan Jilani Kokani, Age 32 years,
Both r/o.Flat No.403, B-Wing, Ashoka Royal,
Ashoka Marg, Pakhal Road, Nashik. Applicants
versus
The State of Maharashtra Respondent

Mr.N.S.Mundargi I/by Gajendra K. Jadhav for applicants.
Mr.Arfa Sait, APP, for State.
Mr.Sanjay Patil, Police Sub Inspector, Kalwa Police Station, present

CORAM : PRAKASH D. NAIK, J.

DATE : 31st August 2018

PC :

1. The applicants are seeking anticipatory bail in connection with CR No.272 of 2018 registered with Kalwa Police Station, Thane for offences under Sections 406 and 420 of Indian Penal Code.

2. The complainant has alleged that she has purchased Hyundai car in the year 2016 and she had decided to rent out the car for earning rent. She approached the co-accused Sunil Shinde, who was conducting business in the name and style as Gajanan Tours and Travels. The complainant was assured that car will be used for business and compensation will be paid to the complainant. However, the complainant did not receive any such amount as assured by Sunil Shinde. Subsequently she received information that Sunil Shinde is agent of OMT Tours and Travels and utilizing

vehicles on hire basis on behalf of said company. The complainant thereafter contacted the applicants, who kept on assuring that the vehicle will be returned to her but did not fulfill the assurances. Hence, the first information report was lodged with police. Learned advocate for applicants submits that the they have no privy of contract with Sunil Shinde. The vehicle was entrusted to Sunil Shinde. However, they are willing to co-operate with the investigation to trace out the said vehicle; there is nothing to show that vehicle was in possession of applicants. It is further submitted that at the instance of applicants several vehicles were recovered by police.

3. Per contra, learned APP submitted that the applicants are involved in two other cases which are under investigation. The applicants had preferred application for anticipatory bail before Sessions Court at Nashik in similar case wherein interim relief has been refused to them. It is further submitted that this application may not be allowed. The modus operandi of the applicant is to misuse the vehicles and therefore two other cases which are under investigation are registered against them. It is submitted that notice was issued to them but in stead of co-operating with the investigation, they had preferred application for anticipatory bail, which has been rejected by the Sessions Court. It is submitted that custodial interrogation of the applicants is necessary to unearth the racket. The co-accused Sunil Shinde is also required to be arrested who is absconding. In the event protection is granted to the applicants, the same would hamper the investigation in the other cases also.

4. Learned advocate for applicants, however, also submitted that applicants may be granted protection and they would co-operate with the investigation to show whereabouts of the said vehicle. It was also submitted that applicants are willing to deposit the value of said vehicle.

5. On perusal of FIR it can be seen that the applicants had also assured to the complainant that amounts towards hire charges will be paid. It shows that the applicants were aware of the said vehicle. The complainant has also alleged that the co-accused Sunil Shinde was acting as an agent of the applicants/OMT tours and Travels. It is also noted that two other cases are also registered against the applicants wherein similar charges are levelled in which investigation is going on. Considering the facts of the case, the reliefs sought in this application cannot be granted. Criminal Anticipatory Bail Application No.1759 of 2018 is rejected. It is clarified that the observations made in this order are only for considering the prayers in this application and in the event applicants are arrested and they prefer any application for bail, the concerned Court shall not be influenced by the same.

(PRAKASH D. NAIK, J.)

MST