IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (ABA) NO.506 OF 2018

(Nitin s/o Mohanlal Kanojiya Vs. State of Maharashtra thr. PSO PS Saoner, Tah. Saoner, Dist. Nagpur)

Office Notes, Office Memoramda of Coram, appearances, Court's orders of directions and Registrar's Orders.	*Court's or Judge's orders.*

Shri Siddharth A. Dharmadhikari, Advocate for Applicant.
Shri N.B. Jawade, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.
DATE: 1st AUGUST, 2018.

The applicant is apprehending arrest in Crime 449/2017 registered with the Police Station Saoner, Tahsil District Nagpur for offence punishable under sections 420, 468, 471 read with section 34 of the Indian Penal Code.

2] The applicant is working as a Sales Manager at Sequel Motors Private Limited.

3] The case of the prosecution is that co-accused Mohd. Dildar Bismillah Shaikh approached the State Bank of India seeking vehicle loan to purchase 1.5 (D) FIGO TITANIUM Car. The loan application was accompanied by quotation of Rs.8,66,478/- issued by the applicant. The State Bank of India sanctioned loan of Rs.7,20,000/- to co-accused Dildar. However, Dildar purchased a vehicle costing Rs.6,12,676/-. Dildar defaulted in payment of installments and the loan account became NPA.

4] The accusation against the present applicant is that although the loan was sanctioned on the basis of quotation issued by the applicant in which the price of the car was shown Rs.8,66,478/-, he did not inform the State Bank of India that Dildar purchased car costing less than the sanctioned loan.

5] The learned counsel for the applicant seriously disputes that the price of the FIGO 1.5 D AMBIENTE which Dildar purchased is Rs.6,12,676/-. He invites my attention to the ledger entry dated 29.10.2016 which records that Sequel Motors Private Limited received Rs.7,15,000/- from State Bank of India through R.T.G.S. transfer. He then invites my attention to the order form in which the on road price of the car is recorded as Rs.6,92,721/-. The tax invoice dated 03.11.2016 is brought to my notice showing the cost of the accessories is Rs.21,922/-. The submission is that the total cost of the vehicle is more than the loan sanctioned by State Bank of India which is directly transferred in the account of Sequel Motors Private Limited.

6] This Court is of the opinion that even taking the material at face value, it is difficult to hold even *prima facie* that the applicant can be implicated in the alleged crime. This of course is a *prima facie* observation.

7] It is not the case of the prosecution that Dildar did not purchase a vehicle at all. It is further not the case of the prosecution that Sequel Motors Private Limited received any amount from the Bank over and above the total cost of the vehicle. The limited submission on behalf of the prosecution is that since the applicant had issued a quotation for Rs.8,66,478/-, it was his duty to inform the State Bank of India that the co-accused Dildar is purchasing a car of lesser value. *Prima facie*, it is difficult to agree with the submission of the learned A.P.P. that offence punishable under section 420 of the Indian Penal Code is made out.

8] This application shall have to be allowed.

9] In the event of arrest, the applicant shall be released on bail on his furnishing personal bond of Rs.15,000/- with a solvent surety of the like amount.

[a] The applicant shall attend Police Station Saoner, District Nagpur as and when required by the Investigating Officer.

[b] The applicant shall not tamper with the evidence.

[c] The applicant shall not attempt to influence the witnesses.

JUDGE

NSN