

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.21 OF 2019

1. Uttam Laxman Mane, Age 35 years, R/o.Plot No.5/H/3, Shivaji Nagar, Govani, Mumbai-43.	
2. Nileshkumar Rajaram Yadav, Age 32 years, R/o.Room No.10, Pestam Sagar, Road no.4, Opp.Balkrupa Building, Tilak Nagar, Mumbai.	Applicants
versus	
The State of Maharashtra	Respondent

Mr.Ashok M. Saraogi for applicants.

Mr.R.M.Pethe, APP, for State.

Mr.N.M.Lokhande, PSI, Kalbar Hill Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 8th January 2019

PC :

1. This is an application for anticipatory bail in CR No.117 of 2018 registered with Malbar Hill Police Station under Section 420 r/w 34 of Indian Penal Code. The applicants had preferred an application for anticipatory bail to the Sessions Court, which has been rejected by order dated 2nd January 2019.

2. The prosecution case is that on 17th December 2018 the first informant alighted from LTT Express which has arrived at from Patna at Kurla Terminus. One person approached him saying that he is taxiwala and took his luggage with him. After negotiations it was decided that the first informant would pay Rs.700/- as taxi fares for dropping the complainant at his residence at Malbar Hill. It is also alleged that one more person had sat in the said taxi who was represented to be the owner of the taxi. It is alleged that the accused

kept the complainant busy in talk. The son of the complainant was to travel abroad on the aforesaid day. Hence, the complainant did not check his articles from his bag. On the next morning he realized that the articles from the bag viz cash of Rs.14,000/-, mobile phone and other articles were missing having value of Rs.27,500/-.

3. Learned counsel for applicant submits that the dispute at the most is with reference to the payment of fares to the applicants by the complainant. It is submitted that the taxi union had approached the complainant and the taxi fare was over charged, had been returned to the complainant. The allegation with regards to missing of articles is false. It is submitted that it is difficult to accept that the complainant did not check his articles on the same day including his cell phone and noticed the same on the next day. It is submitted that the version of complainant is under clouds of suspicion.

4. Learned APP submitted that the complainant had instructed the officer present in Court that no such amount has been received by him. The complainant had received a call on the date of incident and he was asked to settle the matter. It is further submitted that the accused are indulging in nefarious activities which are required to be investigated. Even the call which was received by the complainant requires investigation. It is stated that the applicant no.1 is a taxi driver. The complainant had hired the taxi. The fact that other accused had also boarded the taxi shows the intention of accused. There was no reason for the other person to board the taxi. Taking into consideration the nature of allegations, custodial interrogation of the applicants is necessary and no case for anticipatory bail is made out. Hence, this application is rejected.

5. Learned advocate for the applicant, however, submits that the applicants may be granted ten days time to surrender before the investigating officer. The applicants shall surrender before the investigating officer within ten days from today.

6. After the arrest of applicants and in the event they prefer an application for bail, such application will be considered in accordance with law and on merits without being influenced by rejection of present anticipatory bail application.

(PRAKASH D. NAIK, J.)

MST