

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

CRIMINAL BAIL APPLICATION NO. 384 OF 2020

Biddut Shailendra Bishwas ..Applicant
V/s.

State of Maharashtra ..Respondent

Mr. Ritesh Thobde for the Applicant

Mr. Ajay Patil, APP for the Respondent-State.

CORAM : C.V. BHADANG, J.

**DATE : 28th September 2020
(Through Video Conference)**

PC.

1. The Applicant is facing prosecution under Section 420, 406 read with Section 34 of I.P.C. in R.C.C. No. 659 of 2019 pending before the learned Judicial Magistrate First Class at Pandharpur, District-Solapur. The said case arises out of Crime No. 1392 of 2019 registered with Pandharpur City Police Station. The said offence was registered on the basis of a complaint by one Mangesh Magar.

2. The gravamen of the allegations against the Applicant is that on the representation and pretext of giving a dealership/supply of

electric two wheelers, the Applicant had accepted an amount of Rs. 16,50,000/-from the complainant and thereafter, had failed to supply the vehicles.

3. I have heard the learned Counsel for the Applicant and the learned A.P.P. Perused record.

4. It transpired during the course of hearing that, apart from the present complaint, there were two similar complaints lodged against the Applicant by different complainants. It further appears that in one of the offences namely, Crime No. 389 of 2019 of Police Station Akluj, the learned Additional Sessions Judge at Malshiraj had granted bail to the Applicant vide order dated 10.10.2019 in Criminal Bail Application No. 279 of 2019. It was undisputed that in the second complaint, the Applicant has been released on default bail.

5. In the present complaint, there is a reference to the Applicant having accepted an amount of Rs. 11 lakhs from one Prathmesh Gia and Rs.14 lakhs from one Mr. Bankar. Insofar as the present complaint is concerned, an amount of Rs.15,50,000/- has been transferred to the account of Applicant and the Complainant claims

that Rs.1,00,000/- was paid in cash. Be that as it may, the total amount which the complainant along with Prathmesh and Mr. Bankar is alleged to have paid is to the extent of approximately Rs.32 lakhs.

6. The learned Counsel for the Applicant, on instructions, submitted that there is no prima facie case of the Applicant having cheated the complainant or others. He pointed out that there are several entries in the bank account of Applicant, which would show that the Applicant had paid various amounts to the suppliers of the spare parts/ components of the electric vehicles. He pointed out that the Applicant was only assembling the parts of the vehicles. He pointed out that for various reasons, the supply of the components/spare parts did not materialize and that is the reason why the Applicant could not supply the vehicles. It is submitted that in any event, it is not shown that since inception, the Applicant had no intention to honour the commitment. In this regard, the learned Counsel has pointed out that the Applicant has supplied vehicles worth of Rs.7.5 lakhs to Mr. Bankar, which would indicate, that the Applicant, was making all the efforts to honour the commitment. It is submitted that it is a commercial transaction without any criminal overtones.

7. The learned Counsel for the Applicant on instructions submitted that the Applicant is ready and willing to deposit amount as may be directed by this Court to show his bonafides.

8. The learned A.P.P. has opposed the application. It is submitted that the Applicant has practiced similar deception, in respect of other complainants also. The Applicant is a native of Orissa and he is carrying on business from Nagpur. The learned A.P.P. points out that the Applicant was arrested from Orissa and in the event, he is released on bail, he may not be available for trial.

9. I have carefully considered the circumstances and the submissions made. As noticed earlier in two other complaints, the Applicant has been released on bail. In one of the cases pertaining to Police Station Akhuj, he has been released on regular bail, while in the other, on default bail. Insofar as the present complaint is concerned, the investigation is complete and the chargesheet is filed. The offences alleged are triable by the learned Magistrate. Furthermore, the Applicant has also expressed his willingness to deposit the amount, which he had received from the complainants and others to show his bonafides. Prima facie at this stage regard can be had to the submission on behalf of the Applicant that the

Applicant could not abide by the promise on account of the failure to get the supply of the spare parts/components or the vehicle. The apprehension expressed on behalf of the prosecution, to my mind, can be taken care of by imposing appropriate conditions.

10. In the result, the following order is passed:

ORDER

- i) The Applicant be released on bail on executing a PR Bond in the sum of Rs.50,000/- with two solvent sureties, in the sum of Rs.25,000/- each, out of which atleast one, surety shall be a local surety.
- ii) The Applicant shall furnish his address at the native place as well as at Nagpur, along with proof, to the satisfaction of the learned Sessions Judge.
- iii) This shall be further subject to the condition that Applicant deposits a total amount of Rs.30,00,000/- (Rs. Thirty Lakhs only) before the learned Magistrate out of which Rs.5,00,000/- (Rs. five lakhs only) will be deposited within one week.

- iv) The Applicant shall be released only on deposit of the said amount of Rs.5,00,000/- (Rs. Five lakhs only).
- v) The Applicant is granted six weeks' time to deposit the balance amount of Rs.25,00,000/- (Rs. Twenty Five lakhs only).
- vi) The deposit of the amount shall be subject to further orders, that may be passed by the learned Magistrate, at the conclusion of the trial.
- vii) The Applicant shall undertake to remain present before the learned Magistrate on the dates of hearing and shall not tamper with the prosecution evidence or witnesses.
- viii) In the event of breach of any of the conditions, the bail is liable to be cancelled.
- viii) Criminal bail application is disposed of in the aforesaid terms.

C.V. BHADANG, J.