

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

CRIMINAL BAIL APPLICATION NO. 1438 OF 2019

Vishnu Balbhim Dhere

...Applicant

Versus

The State of Maharashtra

...Respondent

.....

Mr. Vikrant V. Phatate, Advocate for the Applicant.

Mr. H. J. Dedhia, APP for the Respondent – State.

.....

CORAM : PRAKASH D. NAIK, J.

DATE : 26th February, 2020

PC :

1. This is an application for bail in connection with C.R. No. 583 of 2018 registered with Vijapur Naka Police Station, Dist. Solapur for offences punishable under Sections 465, 468, 471, 472, 419 & 420 of Indian Penal Code. Subsequently Sections 120, 193, 196, 198, 200 & 203 were added. The applicant was arrested on 16th October, 2018.

2. The case of the prosecution is that the complaint was lodged by the manager of Shriram Transport Finance Company Ltd. on 16th October, 2018 alleging that, the applicant hypothecated truck and obtained loan of Rs. 8 Lakhs on 15th November, 2016 and R.C. Book was deposited with Finance Company. EMI of Rs. 24,407/- was to be paid to the Finance Company. One Bhimashankar Datta

Devkate was the guarantor. The insurance was paid by the Finance Company. The applicant had deposited the amount of Rs.2,57,450/- towards loan up to 28st January, 2018. However, subsequently there a default. In March, 2018, the Finance Company tried to attach vehicle. The vehicle was sold to Rahul Bankar. It is alleged that the accused had created false No Dues Certificate which was given to the R.T.O. Solapur. The Finance Company was deceived.

3. The statement of various witnesses were recorded. Documents were collected and on completing investigation, charge-sheet was filed. The co-accused Namdev Vishnu Kale and Pravin Dattu Londhe had preferred application for bail before this Court which was allowed by order dated 6th March, 2019.

4. The contention of the applicant is that he is in custody from 16th October, 2018. Investigation is completed and charge-sheet is filed. Further detention of the applicant is not necessary. Undisputedly, the applicant had paid an amount of Rs. 2,57,450/-. However, subsequently there was an agreement between Namdev Kale and applicant. The said agreement was executed on 19th September, 2017, whereby the applicant had accepted the amount of Rs.1,62,000/- towards the sale of the vehicle for amount of Rs. 9,21,000/-. It was also agreed that the balance amount of

Rs.7,59,000/- would be paid by Namdev Kale to Shriram Finance Company along with interest. It was also agreed that, in the event the vehicle is attached for non payment of the loan installment, it will be sole responsibility of Namdev Kale. In view of the said agreement the applicant was under the belief that Namdev Kale was paying installments towards loan obtained by him. Namdev Kale has been granted bail by this Court.

5. Learned APP submitted that the accused were involved in preparing false document. False affidavit was executed, stating that R.C. Book was missing and the vehicle was sold to third person. It was hypothecated to Shriram Transport Finance Company. There was default of non payment of the loan in the bank. The role played by the co-accused can be distinguished. It is also submitted on instructions that Shriram Finance Company had preferred an application for return of vehicle and the same has been returned to them.

6. From the factual matrix of this case, it is apparent that the Tata Vehicle Truck was hypothecated with Shriram Finance Company and loan of Rs. 8 Lacks was obtained. Initially the amount of Rs.2,57,450/- was paid by the applicant. It appears that the applicant has executed an agreement with Namdev Kale on 19th September,

2017. It is also the case of the prosecution that, some documents were prepared to show that the vehicle is not under hypothecation. Subsequently, Namdev Kale had sold the vehicle to Rahul Bankar. False representations were made to Rahul Bankar. The fact that, vehicle is hypothecated was suppressed. False documents were also submitted to the R.T.O. Namdev Kale and Pravin Londhe have been granted bail by this Court by order dated 16th March, 2019. While granting bail they were directed to deposit the amount of Rs. 3 Lakhs each before the Court below and out of the said amount of Rs. 1 Lakhs was to be made over to the buyer of the truck on whom the said applicants had practiced fraud. The vehicle has been returned to the bank. Co-accused were granted bail. The applicant is in custody since 16th October, 2018. The co-accused were directed to deposit the amount of Rs. 3 Lakhs each before the Trial Court. The applicant had accepted an amount of Rs. 1,62,000/- and he volunteered to deposit the same before the Trial Court.

7. Considering the aforesaid circumstances bail can be granted to the applicant. Hence, I pass the following order :

ORDER

- i) Bail Application No. 1438 of 2019 is allowed;
- ii) The applicant is directed to be released on bail in

connection with C.R. No. 583 of 2018 registered with Vijapur Naka Police Station, Dist. Solapur on furnishing P.R. bond in the sum of Rs. 25,000/- with one or more sureties in the like amount;

- iii) The applicant shall deposit the amount of Rs.1,62,000/- before the trial Court within a period of four weeks from his actual release.
- iv) The applicant shall attend Trial Court regularly on the date of hearing of the case unless exempted by the Court.
- v) The applicant shall not approach the witnesses and shall not try to tamper with the evidence.
- vi) Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)