

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

CRIMINAL BAIL APPLICATION NO. 3254 OF 2019

Savita Sinha @ Nidhi Iyer

...Applicant

Versus

The State of Maharashtra

...Respondent

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Mr. Laxmikant M. Shukla a/w. Vaishali Sawant, Advocate for the Applicant.

Mr. S. R. Agarkar, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 20th MARCH, 2020

PC :

1. This is an application for bail in connection with C.R.No. 77 of 2019, registered with Goregaon Police Station, Mumbai for offences punishable under Sections 409, 420 r/w 34 of Indian Penal Code, 1860 ('IPC' for short). The applicant was arrested on 18th July, 2019.

2. The Case of the prosecution is that, the first informant is working with Larsen and Turbo Pvt. Ltd., as Security Officer. Senior Director General of the Company Mr. Mukhopadhyay had lodged the complaint with the Goregaon Police Station. In pursuant to the said complaint, the first informant had appeared before the police for recording First Information Report ('FIR' for short). It is alleged that

Mr. Mukhopadhyay had called for quotations from Car Bazar India Automobile Pvt. Ltd., for purchase of car. He spoke to the employees of Car Bazar. He agreed to purchase Hyundai Verna car for Rs.11,15,205/-. On 18th September,2018 amount of Rs. 9,98,550/- was sent by Larsen and Turbo Pvt. Ltd., to Car Bazar Automobile Pvt. Ltd. The chases number was forwarded by accused company. Balance amount of Rs. 1,16,655/- was paid on 4th October, 2018. It was promised that the delivery of the car would be made on 10th October, 2018. However, on 9th October, 2018, the accused company intimated that the delivery would be made after 7 to 8 days. Thereafter on 24th October, 2018, the accused company intimated that there is mistake in providing chases number, and the same is required to be changed. Inspite of making the entire payment, the car was not delievered to Mr. Mukhopadhyay. He demanded refund of amount. Amount was not returned. Hence, FIR was lodged. The applicant was arrested. On completing investigation, charge-sheet was filed.

3. The applicant preferred an application for bail, before the Sessions Court. The said application was rejected by Order dated 4th November, 2019.

4. Learned counsel for the applicant submitted that, the applicant is in custody from the date of arrest. Investigation is

completed, charge-sheet was filed. Further detention of the applicant is not necessary. The applicant is a lady. The husband of the applicant is in custody. The applicant has minor daughter aged about 10 years. She is in custody from 18th July, 2019. The applicant has been granted bail in other similar cases.

5. Learned APP submitted that, the complainant was cheated. Several offences were registered against the applicant. About 10 FIR were lodged with Goregaon Police Station, Vanrai Police Station and Kandivali Police Station against the applicant and others.

6. The applicant is in custody from 18th July, 2019. The applicant was granted Anticipatory Bail in C.R. No. 404 of 2018, registered with Goregaon Police Station, Mumbai. The Learned Sessions Judge granted Anticipatory Bail to the applicant in the said case by Order dated 17th June, 2019. It was observed that, though the offence is of serious, there is compromise between the applicant and the informant. It appears that the amount of Rs. 77,223/- was recovered during the course of investigation. The applicant was granted Anticipatory Bail in C.R. No. 423 of 2018 by the Sessions Court at Dindoshi vide Order dated 17th June, 2019. The amount involved in the said case was Rs.62,229/-. The entire amount was

recovered. While granting Anticipatory Bail, it was observed that the party had arrived at compromise. The applicant was also granted Anticipatory Bail in C.R. No. 622 of 2018, registered with Goregaon Police Station. The amount involved was Rs 1,86,197/-. While granting Anticipatory Bail, the Learned Sessions Judge had observed that some of Rs. 1,86,197 was accepted by Car Bazar Automobile Pvt. Ltd. However, the parties have compromised. The applicant had preferred an application for Bail in connection with C.R. No. 213 of 2019. The Learned Metropolitan Magistrate, 7th Court Borivali, Mumbai granted bail to the applicant by Order dated 4th December, 2019. While granting bail it was observed that the offence is exclusively trial by said Court. The accused is in jail from 24th September, 2019. No purpose would be served by keeping her in custody despite completing investigation. Co-accused is released on bail. On the ground of parity, the accused is entitled for bail. The applicant was also granted bail in C.R. No. 639 of 2018, registered with Kandivali Police Station, Mumbai by the Court of Learned Metropolitan Magistrate vide Order dated 3rd February, 2020 on certain terms and conditions. It was observed that the applicant is in custody from 3rd December, 2019 but charge-sheet is not filed. The applicant was granted bail in C.R. No. 354 of 2018, registered with Goregaon Police Station, Mumbai. The amount involved was Rs.

7,04,022/- and the entire amount was recovered. While granting bail, the Learned Metropolitan Magistrate had observed that, doubt arises about applicability of Section 409. The applicant was not arrested till completion of investigation. The charge-sheet mentioned that the accused has given a demand draft of alleged cheated amount.

7. Thus, the applicant was granted bail or Anticipatory bail, in several cases. The applicant had preferred an application for bail in three cases, before this Court including the present case. C.R. No. 404 of 2019, registered with Goregaon Police Station, Mumbai, the applicant had not applied for bail.

8. Considering the aforesaid circumstances, further detention of the applicant is not necessary and case for grant of bail is made out.

ORDER

- i) Bail Application No. 3254 of 2019, is allowed;
- ii) The applicant is directed to be released on bail in connection C.R. No. 77 of 2019, registered with Goregaon Police Station, Mumbai on executing P.R. bond in the sum of Rs. 20,000/-(Rupees Twenty Thousand) with one or more sureties in

the like amount;

- iii) The applicant shall report concerned police station once in a month on every first Saturday between 11.00 am. to 1.00 pm. till further order.
- iv) The applicant is permitted to furnish cash security in the sum of Rs. 20,000/- in lieu of surety for a period of eight weeks from date of release.
- v) Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)