

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

CRIMINAL BAIL APPLICATION NO. 3427 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. 293 of 2019, registered with Goregaon Police Station, Mumbai for the offences punishable under Sections 420 r/w. 34 of Indian Penal Code, 1860 ('IPC' for short).

2. The brief facts of the prosecution case are that the First Information Report ('FIR' for short), was lodged by Smt Jayshree Kenkare, on 31st May, 2019. It was alleged that, on 26th December, 2018 the complainant visited the office of Car Bazar Automobile Pvt. Ltd. She met Nidhi Iyer. She discussed about purchase of car. It was represented that, Honda Amez 1.2 V-CVT car is available for Rs.

9,40,543/-. The complainant agreed to purchase the car. She also told the accused that, she want to sell her old used Hyundai I-10 car. Deal in that regard was also finalized for Rs.1,60,000/-. The complainant was given discount of Rs. 1,10,543/- on purchase of new car. After deducting the discount and the price of the old car, it was agreed that the complainant shall make payment of Rs. 6,70,000/-. They were informed that the delivery would be made within 10 days. It was also agreed that old car would be delivered to the accused company on 29th December, 2018. On 29th December, 2019 the employee of the accused company visited the complainant's house for collecting money. She handed over the cheque of Rs. 6,70,000/-. Receipt was issued, cheque was deposited by the accused company. They collected the old car from the complainant. However, Hyundai Amez car was not delivered to her. Subsequently, she was told that car is not available and the booking may be cancelled. The complainant was also informed that amount will be refunded along with interest. Cheque of Rs. 8,50,306/- was issued in favour of the complainant. However, it was noticed that, there was no sufficient amount in the account of the accused. Subsequently, the amount of Rupees one lakhs was deposited into the account of the complainant. Further payment was not made. Thus, the complainant was cheated for the said amount. During the course

of investigation, amount of Rs. 5,00,000/- was recovered from the accused.

3. 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.

4. 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.

5. 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.

6. 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.

7. 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. 3427 of 2019, is allowed;

- ii) The applicant is directed to be released on bail in connection C.R. No.293 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.)