

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR CANCELLATION OF BAIL NO.23 OF 2021

The State of Maharashtra

Applicant.

Versus

1. Harshal Diliprao Kahale

2. Jahed @ Ujer Uttaula Khan.

Respondents

WITH

APPLICATION FOR CANCELLATION OF BAIL NO.24 OF 2021

The State of Maharashtra

Applicant.

Versus

Gaus Gulam Rasul Hannure

Respondent

WITH

APPLICATION FOR CANCELLATION OF BAIL NO.26 OF 2021

The State of Maharashtra

Applicant.

Versus

Hemant Abhaykumar Ramdhave

Respondent

...

Mr. S.B. Narwade, APP for the applicant.

Mr. S.P. Katneshwarkar, Advocate for respondents in all applications.

...

CORAM : **PRAKASH D. NAIK, J.**

DATE : **30-11-2021**

ORDER :

1. All these applications are preferred by State of Maharashtra under Section 439 (2) of the Code of Criminal

Procedure challenging the order passed by the Sessions Court granting bail to the respondents / accused.

2. Crime No. 245/2020 was registered with Anandnagar Police Station, District Osmanabad on 14.09.2020 for offence under Section 420 read with Section 34 of the Indian Penal Code. The case of the prosecution is that, complainant's friend Hemant Ramdhare was dealing in sale of used four-wheelers. On 17.04.2020, Ramdhare had informed him that Mahindra XUV 500 bearing registration No. MH-34-AM-4992 is in good condition having running of 96,000 kms, model of 2015 is available for sale for Rs.6,00,000/-, He represented that it is a good deal. Photograph of the car was forwarded by WhatsApp. The car was from Chandrapur. Complainant made inquiries about the condition of car with Ramdhare. Hemant Ramdhare informed that he had made inquiry with agent from AUSA, dealing with four-wheelers namely Gaus and he had informed that the vehicle is in good condition and not involved in accident. The vehicle is from Chandrapur. Jahed is vehicle agent and through him, information was provided to the complainant. On 22.04.2020 complainant decided to purchase the vehicle for Rs. 5,50,000/-. Complainant gave amount of Rs. 2,00,000/- to Hemant Ramdhare in cash on 23.04.2020 through Dinesh Waikar. Rs. 3,50,000/- were given through Dinesh Waikar after two days. The amount of Rs. 5,50,000/- handed over by the complainant was given by Hemant through agent Jahed to owner of

vehicle. The vehicle was taken into possession by the complainant. It was noted that the vehicle had defects. Ramdhare advised him to show the car to Pioneer car depot. The vehicle had defects and was involved in accident in 2017. The car was taken to showroom. Meter reading was changed. The running of the car was more than 1,50,000 kms. The car was given for repair. It was received after 20 days. The flaws could not be rectified. The car was taken to the workshop authorised by Mahindra. The flaws were pointed out. The complainant realised that the vital facts were suppressed and he has been cheated.

3. Accused Harshal Kahale and Zahed Khan preferred Criminal Bail Application No. 341/2020 before the Court of Additional Sessions Judge, Osmanabad. Gaus Gulam Rasood preferred Criminal Bail Application No. 344/2020. Hemant Ramdhare preferred Criminal Bail Application No. 330/2020. The accused had sought pre-arrest bail. All the applications were allowed by order dated 08.12.2020.

4. Learned A.P.P. appearing for the applicant submitted that all the accused were involved in the offence. Custodial interrogation of the accused was required. The learned Judge has failed to consider the material on record showing involvement of the respondents / accused. The accused had deliberately suppressed vital facts and induced complainant to purchase defective vehicle. Wrongful loss is caused to complainant.

5. Learned Counsel for the respondents / accused submitted that the learned Judge has assigned reasons for granting anticipatory bail. Custodial interrogation of the accused was not necessary. The offence under Section 420 of I.P.C. is not made out. Investigation is complete. Charge-sheet is filed.

6. Primarily the case refers to the sale of vehicle. According to the complainant, the accused had suppressed technical flaws in the vehicle and induced him to purchase the car. The learned Judge, while allowing the application for anticipatory bail, has observed that, it is the responsibility of the buyer to be aware about the details of transaction. The dispute is of civil nature.

7. Investigation had proceeded and charge-sheet is filed. The learned Judge has allowed the applications by assigning reasons, no case is made out for setting aside the impugned orders and cancelling anticipatory bail of respondents / accused in all these applications. Hence, I pass the following order.

ORDER

ACB Nos.23, 24 and 26 of 2021 stand rejected and disposed of.

(PRAKASH D. NAIK, J.)