

Kalyan @ Hemant Mangulal Garud Age 30 Years, Occu: Business, R/o Rupam Apartment, Parimal Colony, Deopur, Dhule, Dist. Dhule	...	Applicant
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The State of Maharashtra, ... Respondents
Through Police Inspector,
West Deopur Police Station, Dhule,
Tq. & Dist. Dhule

CORAM : V. G. BISHT, J.
RESERVED ON : 24th August, 2021.
PRONOUNCED ON : 2nd September, 2021

1. This is an application under section 438 of the Code of Criminal Procedure, 1973 preferred by the applicant seeking grant of pre-arrest bail in connection with Crime No.057/2021 registered with West Deopur Police Station, Dhule for the offences punishable under Sections 420, 468, 471 of the Indian Penal Code, 1860 and section 39 of the Maharashtra Money Lending (Regulation) Act, 2014.

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the vehicles. In the meantime, the applicant also came there on Creta Car bearing registration No. MH-41-AS 9946. There were other vehicles namely Bullet bearing registration No. MH-18 BF 6776, Hero HH Deluxe registration No. MH-18 AV 0943, Bajaj Pulsar registration No. MH-18 BF 8699, TVS Star City registration No. MH-18 BP 4032, Honda Activa registration No. MH-18 AF 0511, Honda Activa registration MH-18 BK 9195 and Toyota Fortuner Car registration No. MH-46 BA 9400. It is alleged that upon demand, xerox copy of R.C. Books concerning Fortuner Car, Bullet, Hero HH Deluxe motorcycle were produced by the applicant but he could not produce documents in respect of other vehicles and as such all the vehicles were seized by the informant. It is further alleged that the during period from 16.02.2019 to 22.03.2021, the applicant carried money lending business without any licence and thus accordingly the offence came to be registered.

3. Mr. A. B. Girase, learned counsel for the applicant, invited my attention to sworn affidavits wherein the persons swearing have clearly stated that they have given vehicles to the applicants on receipt of certain consideration. In such circumstance, there are no ingredients of section 420 IPC. Similarly, there is no material on record to show that the applicant had ever indulged in money lending business to any person. According to the learned counsel, the applicant is a renowned businessman and is a social activist and if arrested, his reputation would

be put to great prejudice and loss which could not be compensated in terms of money.

4. Mr. A.V. Deshmukh, learned A.P.P. on the other hand, would oppose the submissions by contending that admittedly the vehicles were found in possession of the applicant and some of them were not even registered with R.T.O. Learned A.P.P. invited my attention to the affidavit filed on behalf of the State and as also a Chart (Exh.R-1) wherein it is clearly pointed out how the registration numbers of vehicles were forged. Investigation is in progress and in such circumstance, the custody of the applicant is necessary in order to unearth how the applicant came into possession of these vehicles.

5. As far as alleged forging of registration numbers are concerned, on its own showing, the investigation machinery is well aware of the original number, forged number pasted on seized vehicles and name of the original owner of the seized vehicles. Already, this material is with the investigating machinery. Incidentally, it may be pointed out here that there are some affidavits filed by the applicant in support of his case wherein certain vehicle namely Hero HH Deluxe bearing registration No. MH-18 AV 0943 appear to be of the ownership of one Chetan Jaywant Bhadage. It is apparent from the affidavit of that Chetan Bhadage that he had parked his two wheeler in the parking slot of the applicant's premises. Affidavit of Ravindra Shyamrao Jannawar shows that his Toyota Fortuner Car registration No. MH-46 BA 9400

which was found in possession of the applicant in fact was given by him since last couple of months to the applicant for personal use. So also, affidavit of Vijay Ashok Desale shows that the applicant is his friend. His Creta Car bearing registration No. MH-41-AS 9946 was parked by him in front of the house of the applicant. According to Vijay Desale, said Car belongs to one Netaji Pandurang Shinde, it was purchased by one Nilesh Shivaji Ghuge from him but for some technical reasons, the said vehicle is yet to be transferred in the name of Nilesh Shvaji Ghuge. Thus, it is prima facie apparent that some of the vehicles found in possession of the applicant were belonging to other persons who have given affidavits in support of the applicant.

6. As far as allegation of money lending business is concerned, there is no material on record to the fact that any person, at any point of time, had complained the police that applicant was carrying money lending business in violation of section 39 of the Maharashtra Money Lending (Regulation) Act, 2014. Even the so called owners of the vehicles have not come forward that they have been cheated or their vehicles were forcefully taken from their possession by the applicant.

7. For the aforesaid reasons and the fact that the investigating machinery, as far as alleged forgery in respect of registration Nos. of the vehicles are concerned, is in possession of necessary material, in my considered opinion, there is no question of physical interrogation of the applicant. This being so, I am inclined to allow the application.

8. In view of above, I pass following order:

O R D E R

- i. The application is allowed.
- ii. Interim relief granted by this Court on 26.07.2021 is confirmed and is made absolute.

(V. G. BISHT, J.)

JPC