

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1062 OF 2021

M. Rafeeq A. Shikur Qureshi ...Applicant

Versus

The State of Maharashtra ... Respondent

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Advocate for the Applicant : Mr. A. N. Barhate Patil

APP for the Respondent – State : Mr. A. V. Deshmukh

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CORAM : V. G. BISHT, J.

RESERVED ON : 27th SEPTEMBER, 2021

PRONOUNCED ON : 29th SEPTEMBER, 2021

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PER COURT :-

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. 568/2021, registered with Cidco Police Station, Aurangabad, District Aurangabad for the offences punishable under Sections 420, 417 of the Indian Penal Code, 1860.

2. It is the case of prosecution that on 10.08.2021 the informant, a Police Head Constable of Traffic Department, Aurangabad City was on duty in front of Cidco Bus Stand along

with a police Naik. They were inspecting the vehicles. On getting suspicion they inspected a motor-cycle bearing No. MH-22 AC 9968 and when inquired about the documents the motor-cycle rider, namely, Moin Hasanji Qureshi i.e. accused, named in the First Information Report gave evasive answers without showing the documents. But later on disclosed that the said motor-cycle belongs to the applicant. The informant and others then inspected chassis number and Engine Number of the said motor-cycle and found it tampered. Informant accordingly lodged the report.

3. Mr. A. N. Barhate Patil, learned counsel for the applicant, at the very outset, submits that the present applicant is nowhere made as accused in the F.I.R. Moreover, said Moin Hasanji Qureshi has already been released on regular bail by the learned Trial Court. The learned counsel for the applicant also invited my attention to the remand papers of said Moin Hasanji Qureshi and then would submit that there is nothing to be recovered from the present applicant. Hence, the application may be allowed, urged learned counsel.

4. Mr. A. V. Deshmukh, learned APP for the Respondent - State, on the other hand, opposed the submissions by

contending that the custody of the applicant is necessary in order to ascertain how the motor-cycle in question came in his possession. Investigation is in progress. Therefore, there being no merit in the application, the same is liable to be rejected, argued learned APP.

5. Admittedly, the main accused who was found riding motor-cycle without necessary documents, namely, Moin Hasanji Qureshi has been released on bail by the learned trial Court. It is also clear from the F.I.R. that the name of present applicant is not reflected as an accused. The remand report of the said Moin Hasanji Qureshi also shows that the concerned Investigating Officer reported in the remand report that although the said Moin had disclosed the name of applicant as his friend and owner of the motor-cycle but the original owner was found to be different than the applicant. It also goes to show that the accused Moin Ali tried to misguide the police and then Investigating Officer.

6. Apart from above, the motor-cycle in question is already in the custody of the Investigating Officer. There is no necessity of custodial interrogation. Whatever Investigating Officer wants to ascertain from the present applicant that can

be done if the applicant is directed to attend the concerned police station as and when required by the Investigating Officer for co-operation and investigation.

7. In view of above, I am inclined to allow the application.

Hence, the following order :-

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest of the applicant - M. Rafeeq A. Shikur Qureshi herein in connection with Crime No. 568/2021, registered with CIDCO Police Station, Aurangabad, District Aurangabad for the offences punishable under Sections 420, 417 of the Indian Penal Code, 1860, the applicant is directed to be enlarged on bail on his furnishing P.R. Bond of Rs.20,000/- (Rupees Twenty Five Thousand only), with one or two sureties in the like amount.
- (iii) The applicant shall attend concerned police station as and when called by the Investigating Officer.
- (iv) The applicant shall not tamper with the prosecution evidence in any manner.
- (v) Application is accordingly disposed of.

**(V. G. BISHT)
JUDGE**

shp/-