

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

**910 ANTICIPATORY BAIL APPLICATION NO.1246 OF 2021
WITH APPLN/2792/2021 IN ABA/1246/2021**

SAMBHAJI SAKHARAM JADHAV
VERSUS
THE STATE OF MAHARASHTRA

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Mr. Satej Jadhav, Advocate for the applicant.
Mr. A.V. Deshmukh, A.P.P. for respondent - State.
Mr. Harshal Randhir, Advocate assisting the PP.

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

DATE : 07-12-2021

ORDER :

1. The first information report was registered on 03.08.2021 alleging offences under sections 392, 323, 504, 506 of the Indian Penal Code (for short "I.P.C.") vide Crime No.201/2021 with Bodwad Police Station, District Jalgaon.

2. The grievance of the complainant is that after expiry of her husband, the hotel premises belonging to her was rented out to the applicant. Licence fee to be paid to the complainant was in the sum of Rs.20,000/- per month. Considering the fact that applicant was paying licence fee regularly, the complainant developed confidence in him and an amount of Rs.6,00,000/- was given by way of hand loan to the applicant. The complainant had purchased Hyundai Creta Car through the finance company from showroom at Jalgaon. The applicant had allegedly visited the premises of the

complainant on 28.07.2021 and was forcing her to execute the document on Stamp paper stating that the hotel would not be let out or sold to any other person for a period of five years. The complainant refused to do so. The applicant shouted and stated that he has spent huge amount for hotel. The complainant told him to return his amount and vacate the hotel. The car was parked in front of her premises. The applicant accused took away the car with him.

3. Per contra, the contention of the applicant is that the first information report is concocted. The car is purchased by applicant in the name of complainant. The car was not with complainant. Right from taking quotation to delivery of car, everything was done by son of applicant. The showroom from where the car was purchased has acknowledged the said fact by communication dated 04.10.2021. The copy of said communication and quotation and transfer of money by son of applicant has been annexed to application. The letter indicates that there was adjustment for purchasing car and payment made by applicant. The incident alleged by complainant has not occurred. Section 392 of I.P.C. is not attracted. The applicant has no criminal antecedents.

4. Learned A.P.P. submitted that custodial interrogation of the applicant is necessary. Investigation is in progress. Specific overt act has been attributed to the applicant. The car is required to be recovered. The complainant has been paying installments of the car loan. There is evidence to show that the applicant has committed offence.

5. Learned Counsel for the complainant supported the submission of learned A.P.P. He has relied upon the documents and contended that the complainant has been paying installments of loan. There is sufficient evidence to show that the applicant has committed the alleged offence. The complainant has relied upon documents.

6. From the tenor of the F.I.R. and other documents as well as investigation papers, it is apparent that both the sides are relying upon documents. The matter primarily relates to purchase of car. Except Section 392 of I.P.C. all the offences are bailable. Applicability of Section 392 of I.P.C. is debatable. Both the parties are claiming ownership of car. Looking at the nature of dispute, custodial interrogation is not necessary. The applicant was granted interim protection by order dated 27th October 2021. In the light of factual matrix of this case, the interim protection deserves to be continued. Hence, I pass the following order.

ORDER

- (i) ABA No. 1246 of 2021 is allowed.
- (ii) Interim order dated 27th October 2021 is confirmed.
- (iii) In the event of arrest of the applicant in Crime No.201/2021 registered with Bodwad Police Station, District Jalgaon, the applicant be released on bail on executing P.R. bond in the sum of Rs. 25,000/- with one or more sureties in the like amount.

- (iv) The applicant shall report the Investigating Officer on 14.12.2021, 15.12.2021 and 16.12.2021 between 11.00 a.m. and 1.00 p.m. and thereafter as and when called for, till filing of the charge-sheet.
- (v) ABA No. 1246 of 2021 as well as Criminal Application No. 2792 of 2021 stand disposed of.

(PRAKASH D. NAIK, J.)

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