IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1059 OF 2021

Kiran Prakash Borkar .. Applicant
Versus
State of Maharashtra .. Respondent

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Mr.Dilip Bodake, Advocate for the Applicant.

Ms.Anamika Malhotra, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATED : APRIL 26, 2021.

<u>P.C.</u> :

The applicant is arrested in connection with C.R.No.53 of 2021, registered with Khed Police Station, Ratnagiri, for the offences punishable under Sections 120 B, 406, 420, 465, 468 and 471 read with 34 of Indian Penal Code ("IP", for short).

2 The case of the prosecution is that complaint is lodged by Sudhir Sagavekar at the instance of Apna Sahakari Bank Limited, Khed, Ratnagiri. Accused No.1 Kiran Borkar (applicant) and accused no.2 Veersingh Borkar are brothers. Accused no.1 had obtained loan for purchasing SKODA RAPID

car. From the loan amount, he purchased vehicle bearing No. MH 08 AN 2223. Accused no.2 was guarantor for the loan. Accused no.1 had cleared the loan. Thereafter on 28th December,2017, accused no.1 had applied for loan for purchasing TUCSON CRDI 4WD car. Accused no.2 was guarantor. The registration number of the vehicle was MH 08 AQ 2223. On 21st December, 2017, the accused obtained letter of no dues in respect to the car loan for purchasing SKODA car from the bank. The bank issued letter. The applicant altered the letter and the words AN referred to in the registration number of the vehicle were replaced by the word AQ to indicate that the loan in respect to the TUCSON car had been cleared. The accused also made alterations in Form No.35 to show that there are no dues in respect to the loan on the second car.

3 Private complaint was filed by the complainant bank before the concerned court and directions were issued under ection 156(3) of Cr.P.C. to register the FIR against the accused vide order dated 1st December, 2021. In pursuant to that the FIR was registered.

4 Learned advocate for the applicant submitted that the complaint is false. The applicant has been falsely implicated.

Custodial interrogation of the applicant is not necessary. The entire loan obtained for purchase of car had been cleared. No dues certificate was issued by the bank. Police refused to take cognizance of the complaint and hence, private complaint was filed by the complainant. There were no alterations in the documents. The complaint is false. There were cordial relationship between informant and the applicant. In good faith, the applicant has given amount to repay the vehicle loan to complainant Mr.Sagavekar. He had misappropriated the amount. On clearance of the loan, letter was issued by the Bank. Applicant is willing to co-operate with the investigation. Accused no.2 has been granted anticipatory bail by the Sessions Court. Before issue of no lien certificate, the RTO office verify with bank, and, only thereafter clearance certificate could be issued. In the present case, the RTO office has after verification with the informant bank released the lien on the RC book of vehicle bearing MH 08 AN 2223. Accused no.2 wrote letter to RTO office and sought report, which was not received by them.

5 Learned APP submitted that the claim of the applicant is false. The applicant is trying to deceive the bank. Investigation is in progress. The clearance letter relied upon by

the applicant shows alteration. Similar alteration is also seen in Form 35. There is no proof of payment towards installment of loan in respect to the second car by the applicant. The first loan was cleared by following proper procedure, the question of making payment to the informant towards repayment of loan amount, does not arise.

6 From the complaint, it is apparent that the applicant had obtained loan for purchasing SKODA RAPID car. The registration number of the said vehicle was MH 08 AN 2223. The loan installments in respect to the said vehicle were cleared. Since the accused had requested for no dues certificate/letter, the same was issued to him in respect to the said vehicle. The applicant had purchased another vehicle viz. TUCSON CRDI, which was registered as MH 08 AQ 2223. Accused no.2 was not guarantor towards both the loans. *Prima facie,* it can be seen that the letter issued to the RTO officer for removing Hypothication charge dated 11th July, 2018, indicates alteration. The letter in respect to the vehicle MH 08 AN 2223, isi apparently altered to MH 08 AQ 2223. The accused is taking advantage of similar number. Similar alteration can be seen in Form No.35, regarding notice of termination with regards to hire-purchase. There is no

proof that the applicant has cleared the dues in respect to second vehicle. In the circumstances, no case for grant of anticipatory bail is made out and the application deserves to be rejected.

:: O R D E R ::

(i) Anticipatory Bail Application No.1059 of 2021, is rejected and stands disposed of accordingly.

(PRAKASH D. NAIK, J.)