

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1972 OF 2019

Anwar Aziz Khan ... Applicant
V/s.
The State of Maharashtra & Anr. ... Respondents

WITH
INTERIM APPLICATION NO. 265 OF 2020
IN
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1972 OF 2019

Mohammed Talib Firoze Ahmed Khan ... Applicant/Org. Resp. No.2
In the matter between
Anwar Aziz Khan ... Applicant
V/s.
The State of Maharashtra & Anr. ... Respondents

Mr.Harekrishna Mishra i/b. Mr.Sanjay Singh for Applicant.
Mrs.M.H. Mhatre, A.P.P for Respondent No.1-State.
Mr.Sharif Shaikh i/b. Mr.M.A. Shaikh for Respondent No.2.
Mr.Appasaheb Kisave, P.S.I., Goregaon Police Station.

CORAM : A.S. GADKARI, J.
DATE : 7th August 2021.

PC. :

1. Heard Mr.Mishra, learned counsel for the Applicant, Mrs.Mhatre, learned A.P.P for the Respondent No.1-State and Mr.Shaikh, learned counsel for the Respondent No.2. Perused record.
2. By an Order dated 4th October 2019 the Applicant was granted interim relief and was directed to attend the Investigating Officer on stipulated dates to join the process of investigation.

3. It is the case of the informant that, under the guise of sale of Toyota Fortuner Car bearing No. MH-04/FF-7862, the Applicant accepted Rs.9,00,000/- by way of cheque and cash and also issued receipt in that behalf. Applicant subsequently defalcated the said amount and the said vehicle was not handed over to the informant.

Record indicates that, on 4th October 2019 the Applicant had filed an Affidavit dated 24th September 2019 in this Court stating therein that, he will deposit an amount of Rs.9,00,000/- in tranches.

4. Mr.Mishra, learned counsel for the Applicant submitted that, the Applicant has complied with the statement made by him in affidavit dated 24th September 2019, which is recorded in Order dated 4th October 2019 and has deposited the said sum of Rs.9,00,000/- in this Court. Learned A.P.P, on instructions from the concerned Investigating Officer Mr.Appasaheb Kisave, P.S.I. attached to Goregaon Police Station, concedes to the said fact.

5. Learned A.P.P submitted that, in pursuance of Order dated 4th October 2019, the Applicant has attended the Investigating Officer on stipulated dates and has co-operated in the process of investigation. She on instructions from Mr.Appasaheb Kisave, P.S.I., further submitted that, the investigation of the present crime is completed and the Police will submit Chargesheet within a period of two weeks from today.

6. The Prosecuting Agency is seeking custody of the Applicant mainly on the ground for recovery of the said defalcated amount of Rs.9,00,000/-. As the said amount has now been deposited by the Applicant in the Registry of this Court, his custodial interrogation for further investigation of the present crime is not necessary.

7. In view of the above, interim relief granted by Order dated 4th October 2019 is hereby confirmed. However, the condition to attend the Investigating Officer is waived.

8. Anticipatory Bail Application is allowed in the aforesaid terms.

9. As far as Interim Application No. 265 of 2020 filed by the Respondent No.2 for withdrawal of the said amount of Rs.9,00,000/- is concerned, it is to be noted here that, the said amount of Rs.9,00,000/- has been deposited by the Applicant without prejudice to his rights and contentions to be raised at the time of trial, if the Police submits final report under Section 173(2) of the Criminal Procedure Code and/or in any other proceedings arising out of present crime and therefore, at this stage, the said prayer cannot be entertained. Interim Application No.265 of 2020 is accordingly disposed off.

[A.S. GADKARI, J.]