

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 99 OF 2022

Satish S/o Soma Varde

Applicant

Versus

The State of Maharashtra

Respondent

Mr. S. G. Chapalgaonkar, Advocate holding for Mr. R. B. Ade,
Advocate for the applicant.

Mr. S. B. Narwade, APP for respondent/State.

CORAM : M.G. Sewlikar, J.

DATE : 22nd FEBRUARY, 2022.

PER COURT :

1. By this application, applicant is seeking his release on bail in connection with Crime No. 0001/2022 registered with Chopda City Police Station, Dist. Jalgaon, for the offences punishable under Sections 353, 420, 465, 186, 294, 506 of the Indian Penal Code.

2. Facts in brief are that the informant, Police Constable Sumer Kisan Waghare, was on bandobast duty on 31st December, 2021 in Chatrapati Shivaji Maharaj square. At 10.30 pm, a Fiat car of blue colour bearing No. MH 14 AP 1891 came from bus stand,

Chopda. The driver of the car was signaled to stop the vehicle, which he did not do. He stopped the vehicle after crossing some distance. When informant and Police Constable Vijay Bacchaw demanded the papers of the car, applicant refused to give the same. He started behaving arrogantly with them. He threatened them of involving them in atrocity case. He also punched on the chest of the informant and kicked the PSI who was present with the informant. He abused the officers calling them भेनचोद and threatened them that he would get them dismissed. On these allegations, First Information Report came to be lodged against the applicant under the aforesaid sections.

3. During investigation, it transpired that the applicant had forged the number plate of the Fiat car. Report of the RTO Officer shows that this number was assigned to a two wheeler. The number which was assigned to a two wheeler has been used by the applicant. Initially, offences under Sections 353, 186, 294, 506 of the Indian Penal Code came to be registered against the applicant. But after investigation, offences under Sections 420 and 465 came to be added.

4. Heard Shri Chapalgaonkar, learned counsel for the applicant and Shri Narwade, learned APP for the State.

5. Learned counsel Shri Chapalgaonkar submits that except offences under Sections 353 and 420 the Indian Penal Code, all the offences are bailable. He submits that merely using registration number of another two wheeler cannot be an offence falling under Section 420 of the Indian Penal Code. He submits that it does not amount to even forgery. The registration number is in existence but it is not assigned to the vehicle of the applicant. Therefore, it cannot be called a fake number. He submits that at the most, it will be an offence under Section 65 read with Section 192 of the Motor Vehicles Act. He submits that for forgery, there has to be some intention to gain or forgery must be with that objective. In the case at hand, there was no intention of gaining anything. He submits that the applicant had used this number as it is the date of birth of Dr. Babgasaheb Ambedkar. He submits that the date of birth of Dr. Babasaheb Ambedkar is 14th April, 1891. Applicant used "AP" as a short form for April. He submits that applicant is behind the bars since 54 days. Investigation is almost over and only formality of presenting charge-sheet is remained.

6. Learned APP Shri Narwade submits that using registration number of another vehicle as a genuine one amounts to

forgery. He submits that using a fake document as genuine one amounts to forgery under Section 464 of the Indian Penal Code. He places reliance on Section 464 of the Indian Penal Code for this purpose. He further submits that though Section 468 of the Indian Penal Code is not applied, at the time of filing of charge-sheet, it can be applied. Section 471 of the Indian Penal Code can also be applied at the time of filing of the charge-sheet. He submits that there are independent eye-witnesses to the incident of assault on police officers. He further submits that the applicant has criminal antecedents. A criminal case under Section 420 of the Indian Penal Code is registered against him.

7. Learned counsel Shri Chapalgaonkar submits that the applicant has refunded the entire amount and the parties have arrived at settlement. Even petition for quashing of the proceedings is pending and this offence has been registered after the registration of the offence in question. He places reliance on the case of Parminder Kaur vs. State of Uttar Pradesh and another reported in (2010) 1 Supreme Court Cases 322.

8. All these aspects can be dealt with by the trial Court during trial. At this *prima facie* stage, it appears that this case is squarely covered by the observations made by this Court in the case of Mahesh Mehervan Havewalla vs. The State of Maharashtra in Writ Petition No. 1870/2019. In that case, the First Information Report was registered on the ground that the petitioner was driving a Sunny Nissan car with a false number plate i.e. registration number of his old I-10 Car viz. MH 48-A 1639. In short, the allegation was that, without obtaining registration number of newly purchased Sunny Nissan Car, the petitioner had affixed number plate of his old car which was already registered. This Court observed thus :

“4. We have perused the FIR and the relevant sections of the IPC under which the present petitioner has been charged. It is not in dispute and admitted by the petitioner himself that he was driving the vehicle with the number plate of his old car and he has admitted that he has not obtained the registration for the Sunny Nissan Car. Running a vehicle in public place without registration is an offence under the purview of the Motor Vehicle Act and, in particular, Section 192 of the said Act which makes an act of using the vehicle without registration punishable with a fine which may extend to Rs.5,000/-. However, we are not ready to accept the contention of Dr. Shaikh that the petitioner had indulged himself into an act of forgery since the definition of forgery as contained in Section 463 of the IPC makes abundantly clear that basic elements of forgery are making of a false document and such making should be with an intention as specified in

Section 463 of the IPC to cause damage or injury to the public or to any person or to support any claim or title, or cause any person to part with property or, or to enter into any express or implied contract, or for commission of fraud.

9. Moreover, offence is triable by the Magistrate. Applicant is not likely to flee from justice.

10. In view of this, I am inclined to release the applicant on bail. Hence the following order :-

ORDER

(i) Application is allowed.

(ii) Applicant be released on PR Bond of Rs.25,000/- (Rs. Twenty Five Thousand) with one solvent surety in the like amount in connection with Crime No. 0001/2022 registered with Chopda City Police Station, Dist. Jalgaon, for the offences punishable under Sections 353, 420, 465, 186, 294, 506 of the Indian Penal Code, on condition that he shall not interfere in the investigation, shall not pressurise the witnesses and shall attend the concerned police station as and when called by the Investigating Officer and, he shall not commit the similar offence again.

(iii) Application stands disposed of.

(iv) It is made clear that the observations made in this order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its own conclusion during trial.

(M. G. SEWLIKAR)
Judge

dyb