

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

23 ANTICIPATORY BAIL APPLICATION NO.803 OF 2022

BHARAT BABASAHEB PADUL
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Nirmal Ramchandra J.
APP for Respondent-State : Mr. K. S. Patil.
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CORAM : S. G. MEHARE, J.
DATE : 25.07.2022

PER COURT :-

1. Heard the learned counsel for the applicant and the learned APP for the respondent-State.
2. The applicant has a case that the false allegations have been levelled against him by the complainant that he has unauthorizedly taken away the Hyva (Truck) in question. The prosecution has the case that Hyva in question was owned by the first informant. He had sold it to one Uddhav Ambhore and an agreement was executed on a stamp paper. The said contract was notarized. Therefore, the applicant has committed the theft.
3. The applicant has a specific case that he had paid huge money of rupees lakhs to the complainant towards Hyva in

question. The complainant has come with the case of false allegations that the co-accused Rahul has taken away the Hyva from the custody of Uddhav Ambhore. The so called transferee Uddhav Ambhore did not lodge the report against the applicant.

4. Learned counsel for the applicant would refer to the photographs and the copies of the E-payment made to the complainant. The applicant has a case that the huge amount towards the price of Hyva was paid to the first informant who is his maternal cousin. But he did not transfer the Hyva in their name, but to defraud the applicant, he has come with the false story of stealing the said Hyva. The applicant has no role to play in the alleged incident. On the contrary, he has been defraud by his maternal cousin brother. Therefore, his custodial interrogation is not required.

5. On the last date, the facts were observed by this Court. It was also came before the Court that the applicant has lodged the report against the first informant with the police but they did not make investigation. Therefore, learned APP had sought time to take the necessary instructions from the Investigating Officer as regards the report lodged by the applicant.

6. Learned APP would submit that he has been instructed that the applicant and the complainant have no written agreement. Whatever the money the applicant has paid, was paid towards the sand business. Therefore, the story put forth by the applicant is incorrect. He has vehemently argued that the serious offence has been committed by the applicant. Therefore, he is not entitled to the anticipatory bail.

7. The applicant has specific case that the Hyva in question was purchased by him. Hence, it was in their possession. The applicant has placed on record the photographs showing that the Hyva was in their possession. He also filed on record the E-payment slips showing the payment made to the complainant from time to time. In the light of the material placed before this Court, the case of the applicant cannot be thrown at this juncture. The investigation on his report is yet not commenced. The complainant is the maternal cousin of the applicant. Considering the facts of the case and inter-se relation of the complainant, the applicant is entitled to the anticipatory bail. Hence, the following order :

ORDER

- (i) The application is allowed.

- (ii) In the event of arrest, the applicant **BHARAT BABASAHEB PADUL**, be released on bail on furnishing P.B. and S.B. of Rs.25,000/- (Rupees Twenty Five Thousand only) with one solvent surety in the like amount in Crime No.58 of 2022, registered with Police Station Sailu, District Parbhani, for the offence punishable under Section 379 read with Section 34 of IPC, on the conditions that he shall attend the Police Station as and when called by the Investigating Officer. He shall not tamper with the prosecution witnesses.

(S. G. MEHARE, J.)

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vmk/-