

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1041 OF 2022

IRFAN MAGBUL SHAIKH
VERSUS
THE STATE OF MAHARASHTRA

Advocate for Applicant : Mr. Shashikant E. Shekade
APP for Respondent/State : Mr. K. S. Patil

CORAM : S. G. MEHARE, J.
DATE : 29-08-2022

PER COURT :-

Heard the learned counsel for the applicant and the learned A.P.P. for the respondent/State.

2. The applicant has a case that he had entered into an agreement to sell a plot with the complainant. He has paid earnest amount of Rs.10 Lakh to the husband of the informant. However, he had not performed the part of contract. Therefore, legal notice was served on the informant to perform the contract as per the agreement. The applicant has filed a Special Civil Suit No. 113 of 2022 against the informant. However, to counter the said suit, the informant has lodged complaint against the applicant. The complainant has lodged the false report alleging against the applicant that the applicant took the papers of used car under the promise to transfer the said car in the name of the complainant. However, he has transferred the said car to a third person. It is an admitted fact that the said car is still in possession of the complainant.

3. The learned A.P.P. has opposed the application contending that the complainant and the applicant had some money transactions, out of that, to recover the money the papers of the car were taken by the applicant and he has transferred the said car to a third party.

4. Perused the papers produced by the learned A.P.P. It is not in dispute that the civil suit is pending for the specific performance of contract against the complainant and subsequent thereto, the report is lodged against the applicant alleging that he has taken registration papers of the used car. However, the fact remains that the said car is still in possession of the complainant. Considering the dispute between the parties, the possibility of making false allegations against the applicant cannot be ruled out. The said car is now transferred in the name of another co-accused Nitin Ambadas Raskar. Considering the facts of the case, the Court is of the view that the prosecution has no case for custodial interrogation of the applicant. Hence, the application deserves to be allowed.

- i) The application is allowed.
- ii) The order of interim protection granted to the applicant passed by this Court dated 10.08.2022 is confirmed on the same terms and conditions.

(S. G. MEHARE)
JUDGE