

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR CANCELLATION OF BAIL NO.179 OF 2022

Jamir Mustakh Shaikh

.... Applicant

Versus

The State of Maharashtra
and others

.... Respondents

....

Mr. Vishal Kakde, Advocate h/f Mr. Shaikh Mazhar A. Jahagirdar,
Advocate for the Applicant
Mr. A.V. Deshmukh, APP for Respondent No.1 - State

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 01st December, 2022

ORDER :

1. By the present application, applicant – informant seeks cancellation of anticipatory bail granted in favour of respondent Nos.2 and 3 by the Sessions Court.

2. The informant lodged FIR at Crime No. 0229 of 2022, alleging that respondent Nos. 2 and 3 have committed offence under sections 406, 420 read with 34 of the Indian Penal Code, contending that the transaction of two vehicles took place between the parties. One transaction was of sale of the vehicle and the other was of exchange. It is alleged by the informant that Audi SUV car sold by the respondent – accused

was faulty, and it was without legal papers of ownership. When the informant asked to repay the consideration amount, respondent Nos. 2 and 3 refused to pay.

3. The Respondent – original accused approached Sessions Court by filing Criminal Misc. Application No. 994 of 2022 seeking anticipatory bail. The Sessions Court has allowed the application on the ground that the transaction is of sale and purchase of the vehicles between the parties and the vehicles are handed over to the respective purchasers. The Sessions Court was of the view that if there was any dispute of defective vehicle, criminal remedy cannot be adopted as shortcut method to recover money from the accused.

4. The learned advocate for the applicant strenuously submitted that the Sessions Court has failed to consider the seriousness of the allegations levelled in the FIR, and the fact that ingredients of section 420 of the Indian Penal Code are not made out in the matter. Huge amount of Rs.14 lacks is involved in the matter. The Sessions Court, therefore, ought to have rejected the bail application of the respondent Nos. 2 and 3. According to him, the order passed by the Sessions Court is liable to be cancelled in the facts and circumstances of the present case.

5. The FIR, *prima facie*, indicates that the allegations are of civil nature. It is not in dispute that the vehicles are in possession of the respective owners. The applicant – informant appears to have given colour of criminal offence to civil dispute. Custodial detention of respondent Nos. 2 and 3 in the present case is not necessary. There is no illegality or perversity in the order passed by the Sessions Court.

6. The application being devoid merits is dismissed.

[NITIN B. SURYAWANSHI]
JUDGE

S.P. Rane