

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.404 OF 2022

Ashok Kumar Gautam

.... Applicant

versus

State of Maharashtra

.... Respondent

.....

- Mr.Rajeev N. Kumar a/w Gitanjali Ahire, Advocate for Applicant.
- Mr.P. H. Gaikwad, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 17th FEBRUARY, 2022

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.318 of 2021, dated 21/10/2021, registered with Khadakpada Police Station, Thane City, under section 420 of the Indian Penal Code.

2. Heard Mr.Rajeev N. Kumar, learned counsel for the Applicant and Mr.P. H. Gaikwad, learned APP for the State.

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3. The FIR is lodged by one Bhagwan Kashinath Narsale. He has stated that he was a driver. In January 2019 he decided to purchase an E-Rikshaw. Therefore he went to a shop by name RGCO Makers Pvt. Ltd. This business was conducted by the Applicant. The informant made enquiries with the Applicant. The informant was given a test drive. He liked the Rikshaw and decided to purchase it. It is his case that, the Applicant took responsibility of registration of the vehicle and also to take insurance of that vehicle. The informant was asked to pay Rs.2,08,000/-. The Applicant helped him in getting loan for that vehicle. The loan of Rs.1,69,000/- was sanctioned in favour of the informant. It was paid to the Applicant. On 09/03/2019 the Applicant gave that E-Rikshaw to the informant and promised to get registration done. For many days the registration was not done. Therefore he continuously approached the Applicant. The informant himself went to RTO office, Kalyan, but he came to know that E-Rikshaw was not registered for plying in MMRDA region. He approached the Applicant again. The Applicant showed him sympathy and made application to manufacturer of

E-Rikshaw. However, nothing further was done. As the E-Rikshaw was not registered, it is still in possession of the informant but he could not ply that Rikshaw. Therefore he lodged this FIR alleging that he had lost his money on inducement of the Applicant.

4. Learned counsel for the Applicant submitted that the Applicant was granted trade certificate by RTO Office at Kalyan on 26/11/2018. It was mentioned on the certificate that it was valid throughout India, subject to condition & use as per Rule 35. Therefore in good faith he started his business of selling E-Rikshaw. He sold it to the informant, but unfortunately it could not be registered because of the notification which the Applicant came to know subsequently. He received on the letter given by the RTO Officer on 17/05/2019, mentioning that the license granted to him was subject to Government Rules and Regulations which indirectly referred to the prohibition to ply Rikshaw in MMRDA region. Learned counsel for the Applicant submitted that the Applicant did not have any intention to cheat

the informant. The Applicant himself was misled by the certificate issued to him.

5. Learned APP opposed this application. He submitted that the informant is 66 years of age. He has unnecessarily suffered because of the Applicant. The manager of the manufacturer has given a statement that the manufacturer was not concerned with the registration of the vehicles. Learned APP submitted that the Applicant's custodial interrogation is necessary.

6. I have considered these submissions. I have perused the documents relied on, by the learned counsel for the Applicant. The trade certificate was issued by the Kalyan RTO in favour of the Applicant on 26/11/2018 and it was valid throughout India, subject to condition & use as per Rule 35. There is genuine possibility that the Applicant may not be aware that it was not permissible to ply that E-Rikshaw in MMRDA region. The Government Resolution to that effect was issued on 02/09/2016; but the Applicant was informed by the RTO office

Kalyan on 17/05/2019 that the trade license given to him was subject to that Government Resolution, a copy of which was annexed to that letter dated 17/05/2019 sent by the RTO, Kalyan. Significantly this letter was sent on 17/05/2019 and the transaction with the informant was prior to that i.e. in March 2019. Therefore at this stage, there is sufficient indication to show that the Applicant has not acted with any malafide intention. Therefore his custodial interrogation is not necessary. He can be protected by an order of anticipatory bail.

7. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.318 of 2021, dated 21/10/2021, registered with Khadakpada Police Station, Thane City, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

- (ii) The Applicant shall attend the concerned Police Station as and when called and shall cooperate with the investigation.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)