

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2472 OF 2019

Pranit Anant Indulkar ...Applicant
vs.
The State of Maharashtra and Another ...Respondents

VISHAL
SUBHASH
PAREKAR

Digitally signed by
VISHAL SUBHASH
PAREKAR
Date: 2022.02.02
19:30:20 +0530

Mr. N.U. Masurkar, for the Applicant
Mrs. Pallavi Dabholkar, APP for the Respondent-State
Ms. Komal Shah, for Respondent No. 2.
Mr. Sampat Bharad, PSI present.

CORAM : N. J. JAMADAR, J.
DATE : FEBRUARY 02, 2022

(THROUGH VIDEO CONFERENCING)

P.C.:

. Heard the learned counsel for the applicant, the learned APP
for the State and learned counsel for respondent No. 2.

2. This is an application for pre arrest bail. The applicant has
been arraigned for the offences punishable under section 420, 406
and 506 of Indian Penal Code, 1860.

3. The gravamen of indictment against the applicant is that on
20th February, 2017 the applicant took a Inova Car bearing No. MH-
01-CJ-0759 for hire on the condition of paying a sum of Rs. 45,000/-
per month to Mr. Krishna Kharatmol, the first informant. The said
sum of Rs. 45,000/- was inclusive of the monthly installment which

the first informant was to pay to Toyota Finance Company. The applicant neither paid the monthly hire charges, as agreed, nor returned the vehicle. Thus, the applicant duped the first informant to the tune of Rs. 14,59,000/-.

4. Initially, by an order dated 15th November, 2019, this Court granted ad-interim relief to the applicant, with a direction to the applicant to implead the first informant as a party respondent to this application.

5. Mr. Masurkar, learned counsel for the applicant urged that the dispute between the parties is of civil nature, pure and simple. Inviting the attention of the Court to the 'vehicle conducting agreement', which incorporates the terms of the bargain, Mr. Masurkar would urge that in the event of any dispute between the parties, it was specifically provided under clause (vi) of the said agreement that such disputes would be referred to arbitration. In the circumstances, no offence is prima facie made out against the applicant.

6. Indisputably, the applicant committed default in payment of the consideration as provided in clause (2) of the said agreement,

which specifically stipulated that the applicant would pay Rs. 45,000/- per month to the first informant. The term of the said conducting agreement was 36 months. The period of the said agreement has expired. It transpired that the applicant not only committed default in payment of consideration, as agreed, but also did not return the vehicle to the first informant. The failure to pay the monthly installments led to action by Toyota Finance Company. Eventually, as pointed out by the learned counsel for the respondent No. 2, the first informant was required to pay a sum of Rs. 7,25,000/- towards the full and final settlement of the claim of Toyota Finance Company.

7. It is true that the genesis of the alleged offence is in a contract between the parties. However, it does not necessarily follow that there can be no element of criminality in a transaction pursuant to a contract between the parties. If the applicant was not in a position to pay the consideration, as agreed, the vehicle ought to have been returned to the first informant. In the totality of the circumstances, the intention of the applicant seems to have been dishonest since the inception of the transaction.

8. It is imperative to note that the custody of the vehicle was

entrusted to the applicant under the terms of the contract between the parties. The failure return the vehicle to the applicant despite non payment of consideration constitutes a wilful breach of obligation touching the contract, under which, property was entrusted to the applicant. The custodial interrogation of the applicant thus seems warranted to unearth the fraud.

9. In the aforesaid view of the matter, the applicant does not deserve the exercise of the discretion under section 438 of the Code of Criminal Procedure, 1973, in his favour. The learned APP was justified in canvassing a submission that despite the order of this Court granting interim protection, subject to the applicant cooperating with the investigation, the applicant never appeared before the investigating officer and cooperated with the investigation. Copies of the notices addressed to the applicant were tendered for the perusal of the Court, to substantiate the said grievance.

10. Looked from any angle, the applicant does not deserve the relief of pre arrest bail.

Hence, the following order.

ORDER

The application stands rejected.

The interim order dated 15th November, 2019 stands vacated.

At this stage, Mr. Masurkar, learned counsel for the applicant prayed for continuation of interim order for few more weeks.

In the backdrop of the view which this Court is persuaded to take, the request of Mr. Masurkar cannot be countenanced.

The oral application for continuation of interim relief, thus, stands rejected.

(N. J. JAMADAR, J.)