



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

ANTICIPATORY BAIL APPLICATION NO. 1301 OF 2023

Sayyed Quadeer Sayyed Jameel ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Abhinandan Waghmare, a/w Anjaykumar Kori, Sachin
Suware and Sumit Vhanbhate, for the Applicant.

Mr. M. G. Patil, APP for the State/Respondent.

API Santosh Borate, Bhiwandi Taluka Police Station,
present.

CORAM: N. J. JAMADAR, J.

DATED: 7th OCTOBER, 2023

ORDER:-

1. Heard the learned Counsel for the applicant and the
learned APP for the State.

2. This is an application for pre-arrest bail in connection
with CR No.3 of 2022, registered with Kongaon Police Station,
Thane, for the offences punishable under Sections 406, 420
and 392 read with Section 34 of Indian Penal Code, 1860
("the Penal Code").

3. Rahim Shaikh was the registered owner of the Truck
bearing No.MH-23/BE-8298. As he had committed default
in payment of the installments, HDFC Bank had resumed

possession of the truck. Later on HDFC Bank sold the said truck to one Irshad Pathan. The first informant claimed to have purchased the said truck from the said Irshad Pathan. However, since accused No.1 Rahim Shaikh was shown as the registered owner of the vehicle, the first informant claimed to have paid a sum of Rs.2,90,000/- to Rahim Shaikh. On 19th November, 2021, accused No.1 Rahim Shaikh and his associates Idris Gulab Rasool Shaikh, Aamer Iqbal Sayyad and another unknown person forcibly took away the truck while it was parked near Bhiwandi bypass. Hence the report.

4. The learned Counsel for the applicant submitted that the applicant had no role in the alleged criminal breach of trust. Nor the applicant ever entered into any transaction with the first informant. In fact under an agreement dated 10th December, 2021, accused No.1 Rahim Shaikh had agreed to sell the said truck for a consideration of Rs.14,00,000/- out of which a sum of Rs.4,00,000/- was paid by the applicant to accused No.1. The applicant is a *bona fide* purchaser for value. Therefore, custodial interrogation of the applicant is not warranted.

5. The learned APP, on instructions of the Investigating Officer, submits that subject truck has since been recovered.

Prima facie, it does not appear that the applicant was either named as the person, who had dishonestly taken away the truck or was otherwise involved in the alleged offences of breach of trust and cheating. Since the allegations are primarily against the vendor of the applicant and the truck has been recovered, at this length of time, the arrest and custodial interrogation of the applicant does not seem to be warranted. I am, therefore, inclined to exercise the discretion in favour of the applicant.

6. Hence, the following order.

: O R D E R :

- (i) In the event of arrest of the applicant in CR No.3 of 2022, registered with Kongaon Police Station, Thane, the applicant be released on bail on furnishing a PR Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.
- (ii) The applicant shall cooperate with the investigation and attend Kongaon Police Station on 13th and 20th October, 2023 in between 10.00 am. to 1.00 pm. and, thereafter, as and when directed.

- (iii) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant or any of the persons acquainted with the facts of the case.
- (iv) The applicant shall regularly attend the proceedings before the jurisdictional Court.
- (v) It is clarified that these *prima facie* observations are confined to determine entitlement to pre-arrest bail only.

Application stands disposed.

[N. J. JAMADAR, J.]