



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2709 OF 2022**

Shajaji Hanumant Kavitke ... Applicant
versus
The State of Maharashtra ... Respondent

**WITH
INTERIM APPLICATION NO.3363 OF 2022**

Balkrushna Ambadas Powar ... Applicant/Intervener
and
Shajaji Hanumant Kavitke ... Applicant
versus
The State of Maharashtra ... Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO.1768 OF 2022**

Hanumant Chimaji Kavitke ... Applicant
versus
The State of Maharashtra ... Respondent

Mr. Sachin H. Deokar, for Applicants.
Mr. Rushikesh G. Patil, for Intervener.
Mr. R.M.Pethe, APP for State.

CORAM: N.J.JAMADAR, J.

DATE : 1 SEPTEMBER 2023

P.C.

1. Heard the learned Counsel for the parties.
2. These applications are preferred for pre-arrest bail in connection with C.R.No.361 of 2022 registered with Nigdi Police Station for the offences punishable under Sections 365, 387, 420, 452 read with 34 of the Indian Penal Code, 1860 and

Sections 39 and 45 of the Maharashtra Money Lending (Regulation) Act, 2014.

3. When ABA No.1768 of 2022 was listed before this Court on 1 July 2022, this Court granted interim protection to the Applicant – Hanumant and, inter alia, observed as under :

“3.The learned counsel for the applicant submits that the first informant had lodged a report as a counter blast to the complaint lodged by the applicant’s son Shahaji Kavitke wherein process was ordered to be issued against the first informant on 30 April 2022 for the offences punishable under Sections 406 and 420 of the Penal Code. Secondly, the first information report came to be lodged on 13 May 2022 in respect of the incidents which are reported to occurred during the period 21 February 2021 to 3 March 2021.

4. Learned APP seeks time to take instructions as the investigating officer is not present.

5. In the backdrop of the nature of the accusation and the aforesaid circumstances pointed out by the learned Counsel for the applicant, I am inclined to protect the liberty of the applicant till the matter is heard after providing an opportunity to the prosecution.”

4. Shahaji - Applicant in ABA 2709 of 2022 is the son of Hanumant. The learned Counsel for the Applicant submitted that there is a delay of 14 months in lodging the FIR. It was urged that the fact that the FIR was lodged as a counter blast to the private complaint lodged by the applicant – Shahaji against the first informant for the offences punishable under Sections 406 and 420 of the IPC is borne out by the fact that the process was ordered to be issued against the first informant for the said

offences by the learned Magistrate on 30 April 2022 and the FIR came to be lodged on 13 May 2022.

5. The learned APP and the learned Counsel for the Applicant – first informant submitted that, in fact, the first informant had lodged a complaint with the Commissioner of Police on 19 July 2021 itself and the verification of the genuineness of the allegations in the said complaint took a considerable time and, thus, there was delay in lodging the FIR.

6. At the hub of the matter is the controversy over the ownership of two Audi cars. In the private complaint lodged by the Applicant – Shahaji, it is alleged that the first informant despite having sold the said cars and executed /transferred the documents, has retrieved and retained the custody of those cars, and therefore, committed the offences of breach of trust and cheating. The first informant, on the other hand, alleges that the applicants have got the said two cars registered in their names by obtaining the transfer documents from the persons from whom the first informant had purchased those cars.

7. The aspect of delay in lodging the report is required to be considered in the light of the nature of the accusation. Prima facie, there is material to show that FIR came to be registered after the process was issued against the first informant in the private complaint lodged by the applicant – Shahaji.

8. In any event, having regard to the nature of the accusation, at this point

of time, the custodial interrogation of the Applicants does not seem warranted. It appears that the Applicants have roots in the Society. The apprehension on the part of the prosecution can be taken care of by imposing conditions.

9. I am, therefore, persuaded to make the order of interim bail granted to the applicant – Hanumant absolute and grant pre-arrest bail to Applicant – Shahaji.

10. The order of interim bail granted in ABA 1768 of 2022 dated 1 July 2022 qua the Applicant – Hanumant is made absolute on the terms and conditions incorporated therein.

11. In the event of the arrest of the Applicant – Shahaji Hanumant Kavitke in ABA No.2709 of 2022 in connection with C.R.No.361 of 2022 registered with Nigdi Police Station, 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.

12. The Applicants shall co-operate with the investigation and report to Nigdi Police Station on every Sunday from 10.00 a.m. to 12.00 noon for a period of two months.

13. The Applicants – Shahaji and Hanumant shall not contact the first informant and/or and/or give threat or inducement to any of the prosecution witnesses and the persons acquainted with the facts of the case.

14. The applicants shall furnish their permanent address and contract details to the Investigating Officer and shall keep him reported about any change therein.

15. The applicants shall regularly attend the proceedings before the jurisdictional Court.

16. The Anticipatory Bail Applications as well as Interim application No.3363 of 2022 stand disposed.

(N.J.JAMADAR, J.)