SA Pathan

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2168 OF 2023

SHABNOOR AYUB PATHAN
Digitally signed by SHABNOOR AYUB PATHAN
Date: 2023.08.04 15:25:37 +0530

Sahebrao Dashrath Pachundkar ... Applicant
V/s.
The State of Maharashtra ... Respondent

Mr. Ravindra Pachundkar, for the Applicant.
Mr. Amit A Palkar, APP for the State-Respondent.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 4, 2023

P.C.:

1. Apprehending arrest in connection with C.R.No.460 of 2023 registered with Shikrapur police station, Pune for offences punishable under Sections 420,465, 468, 471 r/w 34 of the Indian Penal Code, 1860 (for short 'IPC'), the applicant is seeking relief of pre-arrest bail under Section 438 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.').

2. According to prosecution, the report was lodged alleging that the plaint pending before the Motor Accident Tribunal bearing No.71 of 2020, the applicant who is opponent (owner of vehicle) produced a policy in support of his vehicle being insured. The accident in question took place on 6 February 2020 at 6:15. According to prosecution, the insurance company (New India Insurance Company Ltd.) had never issued policy which was produced before the Tribunal for the period mentioned in the said policy. According to the insurance company, the policy period mentioned in the forged policy is before the date of accident. The applicant produced such policy before the Tribunal.

3. The applicant, therefore, filed application under Section 438 of Cr.P.C. before learned Sessions Judge which came to be rejected by order dated 20 June 2023. Aggrieved thereby, the applicant has filed the present anticipatory bail application.

4. Learned Advocate for the applicant submitted that the applicant is 65 years old. He has no criminal antecedents. The offence alleged is civil in nature. He is unaware of the genuineness of the policy. Therefore, custodial interrogation of the applicant is not necessary.

5. Per contra, learned APP submitted that the applicant as produced on record forged policy. The report of insurer company *prima facie* indicates that such policy never issued by the said company. Therefore, custodial interrogation of the applicant is necessary.

6. I have carefully considered the case papers and the material produced on record. In my opinion, the *prima facie* case is made out against the applicant. The communication issued by the insurer company states that policy annexed in support of applicant's defence before the Tribunal had never been issued by the insurer company. According to the applicant, premium of the said policy was paid in cash. The accident in question is of 6 February 2020. The receipt referred in the First Information Report (F.I.R.) necessary for seeking policy is dated 7 February 2020. In the absence of proof of payment of premium before the date of accident, in the light of communication issued by the insurance company, *prima facie,* the ingredients of forgery are made out against the applicant. Custodial interrogation of the applicant is required to unearth existence of the racket indulging in issuance of such fake policy. Therefore, there is no merit in the application.

7. The anticipatory bail application is, therefore, rejected. No costs.

(AMIT BORKAR, J.)