IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.114 OF 2024

Sameer Nisar Shaikh .... Applicant

versus

State of Maharashtra .... Respondent

…....

- Mr. Jayendra D. Khairnar, Advocate for Applicant.
- Ms. Sharmila S. Kaushik, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 16th JANUARY, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.I-414/2023, dated 16/12/2023, registered with Bhadrakali Police Station, Nashik, under sections 420 and 406 of the Indian Penal Code.

2. Heard Mr. Jayendra D. Khairnar, learned counsel for the Applicant and Ms. Sharmila S. Kaushik, learned APP for the State.

3. The FIR is lodged by one Faiz Akhtarkhan Pathan. He has stated that he was working as a driver on the truck bearing No.MH-15-GV-9292 owned by the present Applicant. The informant wanted to buy his own truck. The Applicant wanted to sell a truck. Therefore, on 14/08/2023 they decided to enter into a transaction. The informant was to buy that truck for Rs.22 lakhs. Out of which Rs.2 lakhs was to be paid to the Applicant and remaining Rs.20 lakhs were to be paid directly to the finance company i.e. Mahindra Finance, in installments of Rs.52,500/- per month. They entered into the agreement on 15/08/2022. The informant paid him Rs.2 lakhs in cash and transferred Rs.1,50,000/- in the Applicant's account. The Applicant gave that truck to the informant. The FIR further mentions that the informant was depositing installments of the loan directly in the Applicant's bank account. He paid about 9 installments to the amount of Rs.4,72,500/-. He spent certain amount for the maintenance of the truck. In May and June 2022 the informant could not pay the installments. In the meantime, the informant's friend Rajendra Bodhale was sanctioned loan by

TVS Finance to the tune of Rs.20 lakhs. The informant and Rajendra wanted to transfer that loan to repay the outstanding loan of Mahindra Finance. The informant therefore approached the Applicant to get NOC. But the Applicant refused and told him that he had sold that vehicle to somebody else. Thus, the informant lost the vehicle and suffered the loss to the tune of Rs.10,95,700/-. On this basis, the FIR is lodged.

4. Learned counsel for the Applicant submitted that, at the highest, the allegations pertain to the breach of contract. The informant knowingly entered into that contract. The Applicant had no intention to cheat the informant. He further submitted that the informant did not pay the installments and therefore the Applicant had no option but to sell that vehicle to another person to raise money.

5. Learned APP opposed these submissions. She relied on the case of the informant in the FIR. She submitted that the entire transaction was illegal and the informant was induced in

parting with his hard earned money. The vehicle is taken away from the informant.

6. I have considered these submissions. The entire transaction was illegal. The loan was never transferred in the name of the first informant and yet the Applicant entered into the transaction with the informant. The vehicle was never transferred in the name of the first informant and yet the informant was made to pay 9 installments of the outstanding loan taken by the Applicant. Subsequently, the vehicle was taken away from the custody of the informant and it was sold to a third person. That transfer was also illegal. Therefore, it is quite clear that through illegal transactions, the Applicant had cheated the informant and has caused loss to the tune of more than Rs.10 lakhs. In this view of the matter, custodial interrogation of the Applicant is necessary. No case for grant of anticipatory bail is made out. The application is dismissed.

(SARANG V. KOTWAL, J.)