IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 469 OF 2024

Subhash Sitaram Agrawal .... Applicant

Versus

The State of Maharashtra .... Respondent

Mr. Milind A. Ingole, for the applicant.
Mr. C.D. Mali, APP for the State/Respondent.

CORAM :SARANG V. KOTWAL, J.
DATE : 27th FEBRUARY, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 560 of 2023 registered at Agripada Police Station, Mumbai, on 02/11/2023,under sections 420 and 406 of the Indian Penal Code.

2. Heard Mr. Ingole, learned counsel for the Applicant and Mr. Mali, learned APP for the Respondent-State.

3. The FIR is lodged by one Nasir Khan He has stated that the applicant was conducting his business in the area where the informant was residing. The Applicant's business was selling

and purchasing of motorcycles. He was conducting that business by the name Agrawal Motors in Rasul building, shop no. 5, K.K. Marg, Mumbai. The informant wanted to purchase a new motorcycle for his personal use. On 06/03/2023, he went to the Applicant's shop to select a motorcycle. He selected one motorcycle. He asked about the price. The Applicant told him that it was for Rs.1,28,000/- At the request of the informant, the applicant told him that if the informant paid him Rs.1,25,000/- immediately, at one time, he could give him the motorcycle for that price. The informant paid him Rs. 25,000/- on that day itself and, on 08/03/2023, he paid Rs. 1,00,000/-. Thus he paid Rs. 1,25,000/- to the Applicant. The Applicant told him that the informant would get delivery of the motorcycle on 22/03/2023. But on 18/03/2023, when the informant went to the Applicant's shop, it was closed. He called the Applicant. The informant was told by the Applicant that he would start his show room at a new place and the informant would get delivery of his vehicle on 22/03/2023. On 22/03/2023, the informant called the Applicant but he did not pick up the phone. Therefore, the informant made inquiries with the neighbouring shop owners who told him that the Applicant had closed his shop and had left the place. Thereafter, the Applicant never contacted the informant and the informant could not contact him. On this basis, the FIR is lodged.

4. Learned counsel for the Applicant submitted that the Applicant was conducting his business since past about 10 to 15 years. There was no intention of cheating. At the highest, it can be a civil dispute for not returning the amount. He submitted that though, the delivery of the vehicle was not given to the other customers, the Applicant had returned half of their amount. He further submitted that the dealer from whom the Applicant was getting the vehicles had committed suicide. Therefore he could not get the vehicles for his customers.

5. Learned APP submitted that this is not an isolated incident. There are 11 other victims. The Applicant had cheated all of them. She produced investigation papers before me.

6. I have considered these submissions and I have perused the investigation papers. These papers includes statements of other victims like Mr. Javed Sayed, Vishnu, Jisan

Ansari, Imran, Ashok Pawar etc. Statements of these witnesses show that they were similarly cheated by the Applicant and he was intentionally accepting money from them without delivering the two wheelers.

7. In this matter, clear dishonest intention of the Applicant right from the inception is seen and his act of misappropriation of the amount is made out. The Applicant's custodial interrogation is therefore necessary. He cannot be protected under section 438 of Cr.P.C. The Application is rejected.

(SARANG V. KOTWAL, J.)