IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 492 OF 2024

Akhilesh Ajay Singh ..Applicant
Versus
The State of Maharashtra ..Respondents

Mr. Sunny Aaron Waskar a/w. Shamish Marwadi for Applicant.
Mr. Arvind A. Naik, APP for State/Respondent.
Mr. Rahul Gautam a/w. Gayatri P. Shahane for Intervenor/Complainant.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 21 FEBRUARY 2024

P.C. :-

1. The Applicant is seeking anticipatory bail in connection with C.R.No.65 of 2024 registered at Kandivali Police Station, Mumbai, on 23.01.2024 under Sections 406, 417, 418, 420, 468 and 471 r/w. 34 of the Indian Penal Code.

2. Heard Mr. Sunny Waskar, learned counsel for the applicant, Mr. Arvind Naik, learned APP for the State and Mr. Rahul Gautam, learned counsel for the Intervenor.

3. The F.I.R. is lodged by one Aajra Shaikh. She has stated that, in the year 2014 she wanted to buy a four wheeler. She got to know about the present applicant and one Sunny Bahadur through

her friend Satish Jha. The applicant and Sunny were working as direct selling agents. The informant wanted to purchase a Celerio vehicle. The applicant introduced the informant to the Sales Executive Yogesh Darekar of Shivam Auto, Kandivali (W). The informant selected a car. She gave cash of Rs.1,60,000/- to the applicant and Sunny and also paid some money for car insurance. The price of the car was Rs.5,50,000/-. The balance amount of Rs.3,50,000/- was to be raised through loan. She has stated that the applicant and Sunny took some documents from her and processed the loan from Shriram Finance. The informant asked for the receipts, but they did not give her any receipt. On 05.02.2014, the applicant and Sunny delivered Celerio petrol car having registration number MH01/BY-1104. The car was delivered at her house. The applicant and Sunny did not give R.C. book to the informant. The informant was sanctioned loan of Rs.3,50,000/- from Shriram Finance. She had to pay E.M.I. of Rs.9614/-. She had paid around 26 installments. Since the applicant was avoiding to handover the R.C. book, she was suspicious. In April 2017, she checked the registration number on the vehicle application. She came to know that the registration of her car actually was allotted to another car of different company belonging to one Smt. Wagle. The informant realized that she was cheated. She tried to contact the applicant, but she came to know that he was arrested in connection with some other offence. She contacted Shivam Auto, but they told her that since they had not received the amount for the registration, they had not registered the car. Thereafter, she was informed by an R.T.O. agent that the car would not be registered because more than two years had passed. She realized that she was cheated. She was returned Rs.80,000/-, but since she had stopped making payment of E.M.I., the finance company took away the vehicle. On this basis the F.I.R. was lodged.

4. Learned counsel for the applicant submitted that the car was given to her in the year 2014 and the F.I.R. is lodged on 23.01.2024. Even assuming that she came to know about the fake registration number in the year 2017, even thereafter there is a delay of almost 7 years in lodging the F.I.R. The amount of Rs.80,000/- was already refunded back to her. She had not made the payment of the installments. He submitted that the vehicle

may not be registered in her name because she had not provided the documents showing her correct name. He submitted that the applicant had delivered the car with a temporary registration number and there is nothing to show that the car was delivered with a fake registration number. He, therefore, submitted that, after all these years the applicant's custody is not necessary.

5. Learned counsel for the informant, as well as, learned APP submitted that, the informant is cheated. According to the learned counsel for the informant, the applicant himself had delivered the car with a fake registration number. The F.I.R. could not be lodged immediately because the applicant himself was lodged in jail when the informant came to know about the non registration of her car. He submitted that the informant had paid Rs.1,60,000/- and also had paid the insurance amount of Rs.14,927/- and in addition had paid 26 installments of the car loan. Therefore, there was no reason why she would make a false complaint against the present applicant.

6. Learned APP produced the investigation papers before me and in particular, relied on the statement of one Akil Mehendi.

He submitted that the investigation has revealed that the registration number mentioned in the F.I.R. is actually belonging to another vehicle.

7. I have considered these submissions. The statement of Akil shows that, he was working as a Sales Executive with Shivam Auto Zone, at the relevant time. The informant had purchased that car in the year 2015. He had given details of the car number and the insurance amount. He then stated that the Shriram Finance company had sanctioned loan of Rs.3,50,000/- to the informant. This witness's company had not applied registration charges. He has clearly stated that the responsibility of registration of the car was that of the direct selling agent. In this case, the direct selling agent was the present applicant. He has further stated that the applicant and Sunny took delivery of the car from this witness's company on a temporary number and gave that car to the informant. Thereafter, in the year 2017, the informant made enquiries about the registration and was complaining that the registration number of the car was wrong. Thus, it is clear that this statement supports the informant's grievance mentioned in the

F.I.R. Though, there is delay in lodging of the F.I.R., however, it is not a question of the loss suffered by the informant alone. More serious concern is about the manner of commission of offence and about using a false number plate for that particular vehicle. That role is specifically attributed to the present applicant. The F.I.R. mentions that the applicant had avoided to handover the R.C. book of the car to the first informant. The car was given with a fake number plate. The responsibility of registration of the car was that of the applicant as mentioned by Akil. Therefore, all these factors show that this offence is more serious than what is described in the F.I.R. Therefore, it is necessary for the investigating agency to have an opportunity to interrogate the applicant through custodial interrogation. The applicant has one criminal antecedent against him i.e. C.R.No.596 of 2016 registered with Kashimira police station for conducting a call center and cheating the foreign nationals. Considering all these aspects, the applicant cannot be protected U/s.438 of the Cr.p.c.

8. The application is rejected.

(SARANG V. KOTWAL, J.)