



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3552 OF 2023**

Anil Jaisinghani

... Applicant

versus

The State of Maharashtra

... Respondent

Mr. Aabad Ponda, Senior Advocate i/by Ms. Swarali Joglekar, for Applicant.
Mr. Rajiv Patil, Senior Advocate with Mr. Ajay Patil, APP for State.

CORAM: N.J.JAMADAR, J.

DATE : 30 JANUARY 2024

P.C.

1. Heard the learned Counsel for the parties.
2. The applicant who is arraigned in C.R.No.487 of 2016 registered with Sakinaka Police Station for the offences punishable under Sections 465, 468, 471, 473 and 506 of the Indian Penal Code and Section 192 of the Motor Vehicle Act, 1988, has preferred this application to enlarge him on bail.
3. Mr. Kishor K. Keswani, first informant, had been at loggerheads with the applicant over the dispute arising out of the alleged unauthorized occupation of the premises of the first informant by the applicant and his associates. A number of complaints were lodged by the first informant against the applicant at Ulhasnagar Police Station. As a counter blast, the first informant alleged, the applicant had set up a lady to lodge a false FIR against the first informant at Anjuna Police Station, Goa.
4. The first informant alleged that on 6 March 2016, the applicant had

brought the officers of Goa Police at Mumbai to arrest the first informant in the said false case. While the first informant was on his way to Chandivali MHADA Market in his Ford Eco Sports Car, he noticed that Innova Car bearing Registration No.MH-05/AX-9808 was following him. An unknown person was at the wheel of the said car. The applicant's brother in law was in the said car along with Goa police officials. The applicant was allegedly driving another Maruti Ertiga Car bearing Registration No.GJ-06/FC-6321 in front of first informant's car. The applicant abruptly halted his car. It dashed the first informant's car. The first informant noticed that the police officers attached to Goa police and another unknown shooter were in the said car. At that time, the applicant had allegedly threatened the first informant to settle the property dispute at Ulhasnagar and accompany the applicant. The first informant made a call to his nephew and the police personnel attached to Sakinaka Police Station came to his rescue. After noticing the police party, the applicant and his associates went away.

5. The gravamen of indictment so far as the instant FIR is that the first informant had then noticed that the registration number of Maruti Ertiga i.e. GJ-06/FC-6321 has been forged. It transpired that the same registration number pertained to another Maruti Eeco Car owned by one Chandubhai. The applicant had fraudulently used the bogus number plate on the said car with a view to mislead the persons and authorities. The said car, the first informant alleged, appeared to be stolen. It was alleged that despite having known that the said number was false and

forged, the applicant had used the same as genuine.

6. The prosecution alleged that after the registration of the aforesaid offences, the applicant made himself scarce. A number of crimes have been registered against the applicant in the intervening period. The applicant came to be arrested in C.R.No.28 of 2023 for the offences punishable under Sections 8 and 12 of the Prevention of Corruption Act, read with Sections 120B and 385 of the Indian Penal Code, registered with Malabar Hill Police Station. Thereupon, the custody of the applicant was obtained in this crime on 27 May 2023. Eventually, it appears, post completion of investigation, chargesheet has been lodged on 14 July 2023.

7. Mr. Ponda, learned Senior Advocate for the applicant submitted that the allegations in the FIR unmistakably indicate that, at best, the applicant can be prosecuted for having used the car of which he was sporting a fake number plate. The applicant has been in custody since May 2023. The applicant has been released on bail in other crimes registered against him, including C.R.No.28 of 2023 registered with Malabar Hill Police Station. From the own showing of the prosecution, it becomes abundantly clear that the fake number plate was installed by Mahesh Tanna from whom the applicant had obtained the said car. The transcript of the conversation relied upon by the prosecution (pages 50 to 59 of the application), does indicate that the fake number plate was procured and installed by Mahesh Tanna.

8. Mr. Ponda further submitted that it is imperative to note the nature of

the accusation in the instant case and the applicant cannot be deprived of the personal liberty by pressing into service the alleged antecedents of the applicant. Strong reliance was placed on the judgment of the Supreme Court in the case of **Bhagirathsingh s/o Mahipat Singh Judeja V/s. State of Gujarat**¹ wherein it was enunciated that if there is no prima facie case, there is no question of considering other circumstances.

9. Mr. Patil, learned Senior Advocate for the State, joined the issue by canvassing a submission that the material on record would indicate that the applicant presents himself as a history sheeter. Taking the court through the affidavit in reply filed on behalf of the State and the circumstances in which the investigating agency, according to Mr. Patil, had not had adequate opportunity to carry out requisite investigation by interrogating the applicant, it was submitted that the investigating agency deserves an opportunity to thoroughly investigate into the offences which are borne out by the transcript of the conversation. Mr. Patil made a painstaking effort to demonstrate that the allegations are not restricted to mere use of a fake number plate.

10. I am afraid to accede to the submission of Mr. Patil. Sheer time lag renders it difficult to accede to this submission. The applicant was arrested on 27 May 2023. If the investigating agency had not had adequate opportunities, there was both time and occasion to have recourse to the provisions in the Code of Criminal

1 (1984) 1 SCC 284

Procedure, 1973 to have the custody of the applicant. At this length of time, after having filed the chargesheet in the month of July 2023, it is not open for the investigating agency to oppose the prayer for bail on the ground that it is in the process of conducting further investigation. Undoubtedly, the Investigating Officer can resort to the provisions contained in Section 173(8) of the Code. However, to urge such a ground when the accused seeks bail without their being any material to show that any steps were taken in that direction at an opportunate time, may not be permissible.

11. Prima facie, the transcript of the conversation between the applicant and Mahesh Tanna, banked upon by the prosecution, lends heft to the submission of Mr. Ponda that the applicant cannot be attributed with the authorship of the fake number plate. That being the gravamen of indictment, I am inclined to hold that a prima facie case for exercise of discretion is made out in favour of the applicant.

12. Indeed, a number of offences seem to have been registered against the applicant since the year 1985. Mr. Ponda claims that out of 17 crimes registered against the applicant, in 10 matters, the proceedings have been closed and /or quashed or the applicant has been discharged. In two matters, there is an interim stay. Five matters are pending in which the applicant has been granted bail. It was submitted that apart from the instant FIR, the applicant has been granted bail in all other cases. Three of the recent FIRs, according to Mr. Ponda, are at the instance of the first informant in this case.

13. Prima facie, it appears that there has been a long standing feud between the applicant and the first informant. As noted above, the genesis of the offences in question is also in that dispute. In the aforesaid view of the matter, and especially having regard to the role attributed to the applicant in the instant case, in my considered view, the antecedents of the applicant do not bear upon the entitlement for bail. However, in the face of the allegations that the applicant had made himself scarce, stringent conditions are required to be imposed.

14. Hence, the following order :

ORDER

- (i) The Application stands allowed.
- (ii) The Applicant – Anil Jaisinghani be released on bail in C.R.No.487 of 2016 registered with Sakinaka Police Station on furnishing a PR bond in the sum of Rs.30,000/- and one or two sureties in the like amount to the satisfaction of the trial Court.
- (iii) The applicant shall surrender his passport, if not already surrendered, before any Court/authority. In the latter case, the applicant shall file an affidavit to that effect before the trial Court.
- (iv) The applicant shall not leave the country without prior permission of the trial Court.
- (v) The applicant shall mark his presence before Sakinaka Police Station on

first Monday of every month in between 11 am to 1 pm for a period of two years or till the conclusion of the trial, whichever is earlier.

(vi) The applicant shall not tamper with the prosecution evidence. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any police officer.

(vii) On being released on bail, the applicant shall furnish his contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.

(viii) The applicant shall regularly attend the proceedings before the jurisdictional Court.

(ix) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

Application disposed.

(N.J.JAMADAR, J.)