

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2828 OF 2024

Virat Laxman Bhusnar ... Applicant
Vs.
State of Maharashtra ... Respondent

Mr. Hrishikesh Sopan Shinde for Applicant.
Mr. Tanveer G. Khan, APP for Respondent-State.

CORAM : MANISH PITALE, J.
DATE : NOVEMBER 13, 2024

P.C. :

. Heard Mr. Shinde, learned counsel for the applicant and Mr.Khan, learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No.0324 of 2024 dated 09.07.2024 registered with Vijapur Naka Police Station, District - Solapur City, for offences under Sections 406 and 420 of the Indian Penal Code, 1860 (IPC).

3. The statement of the informant shows that according to him, a transaction was undertaken between the informant and the applicant with regard to sale and purchase of a four-wheeler belonging to the informant. It is claimed that the agreed amount of consideration to be paid by the applicant was Rs.5 lakhs, of which the applicant paid Rs.3 lakhs to the informant and he was supposed to pay the balance amount of Rs.2 lakhs in the form of outstanding installments with regard to loan concerning the said vehicle. According to the informant, the applicant failed to pay the installments and in that context, he returned the vehicle to the informant. It is further claimed that the informant was supposed to return the amount of Rs.3 lakhs to the applicant, of which, on various dates,

amounts were paid, totalling to Rs.2.76 lakhs. It is further claimed that in the interregnum, the applicant took away the vehicle on the pretext that there was a marriage in his family. Thereafter, the applicant refused to return the vehicle and in this manner, the informant was cheated.

4. The learned counsel for the applicant submits that the informant has deliberately made false assertions in the statement leading to registration of the FIR. He relies upon agreement dated 20.06.2022 executed between the parties. Copy of the same is at exhibit-F. It is submitted that the assertions made by the informant are in the teeth of the clauses of the said agreement as the informant was supposed to clear the loan and thereupon, the applicant was to pay the balance amount of Rs.2 lakhs to the informant. Attention of this Court is invited to legal notice dated 20.01.2024 issued on behalf of the applicant to the informant, calling upon the informant to clear the outstanding loan so that the applicant could pay the balance amount of Rs.2 lakhs as per the agreement between the parties. It is submitted that the informant illegally took further loan on the said vehicle after having closed the earlier loan account and this fact was mentioned in the legal notice issued on behalf of the applicant.

5. It is submitted that, as of now, the police has taken away the vehicle and the applicant is left high and dry, apart from facing the aforesaid criminal proceedings. It is further submitted that the applicant is ready to co-operate with the investigation.

6. The learned APP has opposed the present application, submitting that the ingredients of the offence are made out on the basis of the statement of the informant.

7. This Court is of the opinion that in the peculiar facts of the present case, wherein the applicant relies upon the aforementioned

agreement dated 20.06.2022 and the legal notice dated 20.01.2024 issued to the informant, it would be appropriate that the informant is added as a party respondent No.2. Notice will have to be issued to the said respondent in the facts and circumstances of the present case.

8. But, in the meanwhile, this Court is of the opinion that the applicant has made out a case for granting interim relief in his favour. The contents of the agreement dated 20.06.2022 show that the assertions made in the statement of the informant leading to registration of the FIR, are in the teeth of the clauses of the said agreement. While the relevant clauses of the agreement stipulate that the informant was supposed to close the loan, whereupon the applicant was required to pay the balance amount of Rs.2 lakhs for the said vehicle, in the statement of the informant, it is claimed that the balance amount of Rs.2 lakhs to be paid by the applicant was in the form of the outstanding installments pertaining to the loan, concerning the said vehicle.

9. Apart from this, in the legal notice dated 20.01.2024, the applicant specifically asserted that the informant had taken a further loan on the said vehicle after having closed the earlier loan without even informing the applicant, who continued to be in possession of the vehicle. If the assertions made by the applicant are found to be correct, he would be justified in claiming that the very basis of the registration of the FIR is taken away. Hence, the applicant deserves interim relief in his favour during the pendency of the present application.

10. In view of the above, the applicant is directed to add the first informant as respondent No.2 by way of amendment. The amendment to be carried out within one week from today.

11. Issue notice to respondent No.2, returnable on 09.12.2024, High on Board.

12. In the meanwhile, there shall be interim relief in favour of the applicant in the following terms:-

- A. Till the next date, in the event the applicant is arrested in connection with FIR No.0324 of 2024 dated 09.07.2024 registered with Vijapur Naka Police Station, District - Solapur City, he shall be released on bail on furnishing PR Bond of Rs.25,000/- with one or two sureties in the like amount;
- B. The applicant shall remain present before the investigating officer between 10:00 a.m. and 12 noon on 15.11.2024 and thereafter as and when called;
- C. The applicant shall not influence the informant, witnesses or any person concerned with the case and he shall not tamper with the evidence.

13. Needless to say, violation of any of the aforesaid conditions may result in this order being recalled.

14. List for further consideration on 09.12.2024, to be included in the supplementary list.

(MANISH PITALE, J.)

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