IN THE HIGH COURT OF JUDICATURE AT BOMBAY NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO.627 OF 2024

Anuj s/o Saheb Singh
Vs.
State of Maharashtra, Through Police Station Officer, New Kamptee Police Station, District Nagpur

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

Mr. S. P. Sonwane, Counsel for applicant.
Mr. A. V. Palshikar, APP for non-applicant /State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 20/09/2024

1. Apprehending the arrest at the hands of police in connection Crime No.204/2024 registered with Police Station, New Kamptee, District Nagpur for the offences punishable under Sections 406, 420, 467, 468, 471, 120-B of the Indian Penal Code, the applicant approached this Court for grant of pre-arrest bail.

2. The crime is registered on the basis of the report lodged by the informant Santkumar Munnulal Ajit alleging that, he is acquainted with the applicant and was aware about the dealings in second hand vehicles. In November 2022, the informant was looking for a small segment four wheeler vehicle and therefore, he contacted the applicant. As per the suggestion of the applicant, he has finalized the deal to purchase the second hand Maruti Alto car for

Rs.1,75,000/- which is to be paid in cash to the applicant. The applicant was informed that the owner shall be giving the original documents after the receipt of the sale consideration. The informant trusted and the applicant agreed for the same. Accordingly, the informant has arranged the funds and paid the same to the applicant and has taken possession of the car. After period of one month of the said transaction, the applicant after repeated requests has handed over the R.C. Book, Transfer Forms and blank stamp papers of Rs.100/-, which was signed by the owner of the vehicle. The informant then noticed from the R.C. Book that the vehicle which he has purchased though it is already mortgaged by the owner and therefore, it was not possible to enter his name in R.C. Book as the owner of the said vehicle. He had made a complaint with the applicant to that effect. The applicant assured that he will bring the No Objection Certificate of the owner after the full payment of the loan. However, the informant could not put his name in the R.C. Book for the said reason. The informant further alleged that while he was travelling in the said vehicle about a month ago, one person restrained his vehicle and asked how he is in possession of the said vehicle, and thereafter, he came to know that he is the original owner and said original owner has informed him that he has purchased the vehicle by obtaining the loan of Rs.4,50,000/- from Union Bank of India. However, due to medical emergency, he was required to mortgage the said vehicle with one Manish Bhaisare to obtain the loan of Rs.90,000/-. When he tried to take back his vehicle, he could not get back the same as said Manish Bhaisare died. It was further alleged that his signatures were forged on the transfer papers and the documents with the forged signatures were handed over to the informant. On the basis of the said report, police have registered the crime against the present applicant, as per the directions of the learned Judicial Magistrate First Class, Kamptee, wherein the informant has filed an application under Section 156(3) of the Code of Criminal Procedure.

3. Learned Counsel for the applicant submitted that the recitals in the application which is filed under Section 156(3) of the Code of Criminal Procedure and the recitals of the FIR are completely different. He submitted that only to recover the money of the different transactions, this FIR came to be lodged. He invited my attention towards the various documents and submitted that initially, three cheques were issued by the present applicant and the said cheques were dishonoured regarding the same, the complaint was also filed and to recover the said amount, this false FIR came to be lodged. He submitted that as far as the custodial interrogation is concerned, which is not required. In view of that, the applicant be protected by granting anticipatory bail.

4. Learned APP strongly opposed the said application and submitted that during the course of investigation, the informant's statement as well as the statement of the original owner was recorded from which it reveals that the original owner was in need of money for the treatment of his daughter and therefore, he kept the said vehicle with Manish Bhaisare for Rs.90,000/- and also handed over him the original documents of the car, however when the said Dhirajkumar Gupta tried to get back his possession, he could not get the same and therefore, he made an inquiry and it revealed that said vehicle was given into the possession of the present applicant and present applicant has prepared the documents transferring the same by forging the signature original owner. He submitted that considering the allegation against the present applicant that he has forged the signature of the original owner, his custodial interrogation is required, in view of that, the application deserves to be rejected.

5. During the submissions, learned Counsel for the applicant further invited my attention towards the communication between the present applicant and the other persons involved and submitted that from that communication it is crystal clear that the vehicle was handed over to the present applicant and thereafter, the informant has purchased the same from the present applicant. As far as the documents

are concerned, no documents was handed over to informant, therefore the allegation is baseless. In support of his contention he placed reliance on **Usha Chakraborty and another Vs. State of West Bengal and another** report in **2023 LiveLaw (SC) 67** wherein the Hon'ble Apex Court has considered the basic requirements of Sections 468, 467, 420 of the Indian Penal Code.

6. After hearing the learned Counsel for the applicant and learned APP for the State, perused the investigation papers from which it reveals that during the investigation the statement of one Deepak Ramchandra Sharan as well as the original owner Dhirajkumar Nandkishor Gupta were recorded from their statements it reveals that it was the present applicant who has forged the signature of the original owner and thereafter, the said documents were handed over. The statement of the original owner specifically shows that he has not sold out the vehicle to anybody, but he has handed over the said documents of the vehicle to one Manish Bhaisare, who subsequently reported to be dead. His statement further shows that present vehicle was in possession of the present applicant and he has sold it to the informant and the signatures which are shown as the signature of the owner are not his signature. Thus, considering the statements of the original owner it reveals that by forging the signature of the original owner that vehicle appears to be sold out to

the informant. Considering the allegation and the nature of the allegation against the present applicant admittedly, his custodial interrogation is required to ascertain the facts. In view of that, no case is made out for grant of anticipatory bail. Admittedly, the considerations for grant of anticipatory bail and considerations for grant of bail under Section 439 are different. Considering the fact that, the allegations made against the present applicant are of a grievous nature for which admittedly, the custodial interrogation is required. In view of that, the application deserves to be rejected. Accordingly, I proceed to pass following order:

The application is rejected.

(URMILA JOSHI-PHALKE, J.)

Sarkate