

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 430 OF 2015**

Bharat Premnarayan Prajapati	...Applicant
Versus	
State of Maharashtra	...Respondent

Mr. D. J. Shukla for the Applicant

Ms. S. S. Kaushik, A.P.P for the Respondent-State

API Mr. Dhananjay M. Shinde from Pantnagar Police Station is present

CORAM : REVATI MOHITE DERE, J.

THURSDAY, 26TH MARCH, 2015

P.C. :

1. Heard learned Counsel for the applicants and the learned A.P.P.
2. By this application, the applicants seek pre-arrest bail in connection with C.R. No. 76 of 2015 registered with the Pant Nagar Police Station, for the alleged offences punishable under Sections 406, 420 r/w 34 of the Indian Penal Code.

3. The complainant is one Mrutyunjay Markanday Maurya. The complainant's son Swapnil had passed out from Swami Vivekananda College, Kurla with 76% marks and was keen on pursuing medicine. He has stated that they tried for his son's medical admission in 2012-2013. However, as his son did not secure admission, he again started making efforts to find out how his son Swapnil could get admission in a Medical College in the year 2014. He has alleged that he met one acquaintance of his, one Rajeshbhai and while discussing with him, the said Rajeshbhai took keen interest, sought Swapnil's documents and asked the complainant to meet him for the admission of his son, in a Medical College. It is stated that Rajeshbhai sent an sms on the complainant's mobile, that if his son wanted admission in Kampe Gawda Medical College, Bangalore, Karnataka, the complainant would have to pay Rs. 25 lakhs. According to the complainant, he disclosed to Rajeshbhai that he did not have the capacity to pay such a huge amount and asked him if the amount could be reduced. Rajeshbhai is said to have introduced the complainant to one Patankar Madam, who was to do the admission work and disclosed to the complainant that he had also spoken to her, with regard to Swapnil's admission. Accordingly, on 2nd June, 2014, Rajeshbhai is stated to have

called the complainant and asked the complainant to come and meet Patankar Madam on 3rd June, 2014 at the Cafe Coffee Day, at Pant Nagar. The complainant accordingly went to the said Cafe Coffee Day on 3rd June, 2014 at about 2:30 p.m. along with his friend Iqbalbhai and one another, whose children were also promised admission. They met Rajeshbhai, who introduced them to Patankar Madam and stated that she would be doing the admission work for them. It is stated that the said Patankar Madam, after a number of discussions, disclosed to the complainant that, after the admission was done, he would have to pay a sum of Rs. 22 lakhs. Accordingly, Patankar Madam is said to have called up one Shweta and discussed with her about the admission. He has alleged that at that time Shweta was present with the applicant and they have alleged to told the Patankar Madam that the work would be done in Rs. 22 lakhs, and that the admission would be done in Sanjeev Reddy College, Karnataka or at the Dhule College at Maharashtra. Accordingly, the meeting was over. Thereafter, on the next day, according to the complainant, he along with his two friends, who also wanted admission for their children, went to Cafe Coffee Day to meet Patankar Madam. Patankar Madam is alleged to have spoken to Shweta. It is alleged that Shweta disclosed to Patankar Madam

that the admission work of two other persons who had come with the complainant, would not be done, as both the children were repeaters. Accordingly, the same was disclosed to the complainant's friends. On 10th June, 2014, Patankar Madam is stated to have called the complainant for finalizing the admission of the complainant's son and it was decided that they would meet at Manish Lunch Home. It is alleged by the complainant that he disclosed to Patankar Madam that it would not be possible for him to give a sum of Rs. 22 lakhs and requested her to do the admission in Rs. 18 lakhs. Thereafter, on 14th June, 2014, Patankar Madam is alleged to have demanded a sum of Rs. 10 lakhs as advance, which the complainant refused to pay and the said Patankar Madam is said to have got enraged and left the place. Thereafter, the complainant is alleged to have called up Shweta and disclosed to her that he will not pay any advance and that, only after the admission was done, the payment would be made. Shweta is alleged to have disclosed to the complainant, that the said admission would be done by her and the present applicant and therefore, not to pay any advance to Patankar Madam. On 16th June, 2015, Shweta is alleged to have called up the complainant, however, she was not present at the place, the complainant met the present applicant and one Mittal, who told the

complainant that the process of admission is going on at the Sanjeev Reddy College, Karanataka and that the complainant would have to pay an advance of Rs. 5 lakhs for the same. According to the complainant, on 17th June, 2014, he went to Cafe Coffee Day, where Shweta, present applicant and Mittal were present, and an amount of Rs. 5 lakhs was given to them. It is alleged that they told the complainant, not to disclose about the payment of Rs. 5 lakhs to anyone and that the balance payment should be made after the admission process is over. Thereafter, an amount of Rs. 1.5 lakhs was allegedly transferred by RTGS in the account of Shweta.

4. The learned Counsel for the applicant contended that the custody of the applicant is not required and that there are no antecedents and there is no possibility of applicant fleeing. He submitted that the applicant had not induced the complainant into making any payment, but it was Rajeshbhai who instigated the complainant to make payment and hence, Section 420 will not apply.

5. The learned A.P.P opposed the application. She submitted that the complicity of the applicant is writ large in the FIR. She submitted that

the applicant is a teacher in New Ideal English School and is part of the conspiracy to cheat the complainant. She submitted that the custodial interrogation of the applicant is necessary to unearth the modus operandi.

6. Perused the FIR. The name of the applicant is clearly disclosed in the FIR and it is categorically averred that the said amount of Rs. 5 lakhs was paid to the applicant, Shweta and one Mittal on 17th June, 2014. It is also clearly stated that on 16th June, 2014, the complainant met the present applicant and one Mittal, who disclosed to the complainant that the admission of the complainant's son was done in Sanjeev Reddy College in Karnataka and that he would have to pay a sum of Rs. 5 lakhs, immediately. None of the accused who have been named in the FIR have been arrested in the case, so far.

7. Considering the manner in which the complainant was cheated and to unearth the modus operandi of the applicant along with others, the custodial interrogation of the applicant is necessary. Accordingly, the application is rejected.

8. If an application seeking regular bail is filed by the applicant, the same shall be considered on its own merits, uninfluenced by the observations made herein.

REVATI MOHITE DERE, J.