

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1993 OF 2016

Mehboob Ahmed Ulde. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Ranjeet Patil i/b. Mr. Kuldeep S. Patil, advocate for Applicant.

Mr. Prashant Jadhav, APP for State.

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : NOVEMBER 21, 2016**

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State. Perused the papers.

2 This is an application under Section 438 of the Code of Criminal Procedure, 1973. The applicant herein is apprehending his arrest in crime No. 8 of 2016 registered at Sagari Police Station, District-Raighad and is being prosecuted for offence punishable under section 420 of the Indian Penal Code.

3 It is the case of the prosecution that the complainant had approached the office of the SDPO and lodged report alleging therein that the complainant was in need of money and therefore, she had approached the present applicant to seek loan and she also wanted to give interest on the loan. However according to the applicant, this is against his muslim religion to accept interest and therefore, he had initially refused and subsequently, the complainant had pledged her golden ornaments with the present applicant weighing about 12 tolas of gold. Thereafter, she had approached the applicant on several occasions for returning the golden ornaments. It is alleged that the applicant had evaded to return the golden ornaments and in view of it had issued a cheque to the tune of Rs. 12 Lakhs to be drawn on Kokan Mercantile Co-operative Bank. According to the complainant, cheque has been dishonoured.

4 It is pertinent to note that no case is filed against the present applicant under Section 138 of the Negotiable Instruments Act and

the complainant had not approached the concerned police station, but had directly approached SDPO and upon directions from the SDPO, the offence has been registered. In the facts of this case, the present applicant deserves to be granted pre-arrest bail.

5 The learned APP submits that there are several other cases registered against the applicant under section 420 of the Indian Penal Code. As on today the learned APP has no intimation whether he has been charge-sheeted in all cases or convicted in any of the case. As far as this case is concerned, the applicant deserves pre-arrest bail.

6 However, it is made clear that the observations made herein above are prima facie in nature and are restricted to the application under section 438 of the Code of Criminal Procedure, 1973. The learned Sessions Judge shall not be influenced by the same at the time of hearing of application for discharge or quashing of FIR or at the time of trial.

7 Hence following order is passed :

ORDER

- (i) The application is allowed.
 - (ii) In the event of arrest in Crime No. 8/16, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 50,000/- and one or more local solvent sureties in the like amount.
 - (iii) The applicant shall report to the police station for a period of one week commencing from 24/11/2016 to 30/11/2016 everyday between 10 a.m. to 12 noon and cooperate with the investigating agency to the best of his capacity.
 - (iv) The applicant shall not tamper with the evidence.
 - (v) The applicant shall give his contact details such as residential address, contact numbers such as landline number, cell number etc. to the concerned Investigating Officer.
- 8 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)