

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

ANTICIPATORY BAIL APPLICATION NO.2224 OF 2017

Jitendra Pundlik Kate .... Applicant

Vs.

The State of Maharashtra .... Respondent

Mr. Mahendra Singade Kale for the Applicant.

Ms. S.S. Kaushik, APP for the State.

Mr. M.V. Bhoir, PSI, Khandeshwar Police Station, Navi Mumbai.

**Coram : Smt. Sadhana S. Jadhav, J.**

**Date : 4<sup>th</sup> January, 2018**

PC.:

1           Heard the learned counsel for the applicant and the  
learned APP.

2 This is an application under Section 438 Code of Criminal  
Procedure. The applicant herein is apprehending arrest in Crime No.  
264 of 2017, registered at Khandeshwar Police Station for the  
offences punishable under Sections 365, 342, 324, 323, 504, 506  
read with 34 Indian Penal Code.

3           It is the case of the prosecution that on 13<sup>th</sup> December 2017, complainant, Milind Pandurang Pawar was admitted in Lifeline Hospital as he was injured. He has disclosed to the police that he was a good friend of Sandip Chavan. They both were dealing with real estate. That Sandip Chavan and the complainant had given bogus forms to six persons including the present applicant assuring them that they would give them an employment in Sales-Tax office. The complainant and Sandip Chavan had received Rs.3,50,000/- from six persons. By efflux of time, the said persons have realised that they had been cheated. They called upon the complainant as well as Sandip Chavan to return the amount. Both of them had evaded to answer their calls or return the amount. That on 11<sup>th</sup> December 2017, the complainant was called at Hotel Padma by his friend-Rinku. At about 10.00 pm., when the complainant was returning home alongwith friend Shashikant, the applicant and others from whom the complainant had received an amount had apprehended them. It is alleged that chilly powder was thrown in the eyes of the complainant and he was assaulted with fists and kicks blows and then he was taken by the said persons to a particular place and was detained. On the next day, he had managed to escape from the said place.

4           Learned counsel for the applicant submits that in fact the applicant is a victim as he has been cheated by the complainant and

Sandip. Learned counsel for the applicant has drawn the attention of this court to the annexure of the petition, which shows that the complainant had issued a cheque of Rs.2.00 Lacs in favour of the applicant on 2<sup>nd</sup> February 2016. The said cheque was dishonoured. The applicant was insisting upon the complainant to return the amount, however, the complainant and Sandip had evaded to even receive the calls from the applicant. It is true that the action of the applicant cannot be justified. It is also true that the applicant has not filed any report against Sandip or Milind. Learned counsel for the applicant submits that the complainant and Sandip were intermittently promising the applicant that they would return the amount and once the F.I.R. would be lodged against them, the applicant would not have receive the amount and therefore they had not lodged the report.

5            Learned APP submits that the complainant has received serious injuries to his eyes and that he is likely to be operated within a week. Be that as it may in the facts of the case, the applicant deserves pre-arrest bail.

6            The observations made hereinabove are restricted to the application under Section 438 Code of Criminal Procedure and shall not be taken into consideration for the purpose of quashing of F.I.R., discharge application or at the time of trial. Hence, the order :

O r d e r

1            In the event of arrest, the applicant be enlarged on bail on furnishing P.R. bonds of Rs.25,000/- with one or more solvent sureties in the like amount.

2            The applicant shall report to the police station as and when called by Police and shall not leave District Raigad till conclusion of the trial.

**( Smt. Sadhana S. Jadhav, J)**