

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

ANTICIPATORY BAIL APPLICATION NO. 366 OF 2019

Yuvraj S. Mailswamy ... Applicant

Versus

State of Maharashtra ... Respondent

Mr. Tejas H. Bhatt for Applicant.

Mr. N. B. Patil, APP for Respondent – State.

CORAM : NITIN W. SAMBRE, J.

DATE : FEBRUARY 12, 2019.

P.C. :

. In Crime No. 342 of 2018 for an offence punishable under Sections 406, 417, 419, 420, 465, 467, 468, 471 read with Section 34 of the Indian Penal Code, the Applicant is seeking pre-arrest bail.

2. The learned Counsel for Applicant while explaining the Court as regards mode and manner of commission of offence would urge that the involvement of the Applicant is only to the extent of introducing himself as the brother of the policy holder, permitting use of his Adhar

Card and his identity for the purpose of premature encashment of an insurance policy.

3. The submissions are that there are no criminal antecedents, the Applicant is not beneficiary of the amount involved in the crime in question and he is very much available for the investigation. It is also brought to the notice of this Court that the investigating agency arrested the brother of the Applicant under mistaken identity and was subjected to third degree treatment, however, he was subsequently released having realized that he was mistakenly taken into custody. The submission is, the Applicant will co-operate with the investigating agency.

4. The learned APP submits that it is sufficient to infer the *prima facie* involvement of the Applicant in the crime in question. According to the learned APP custodial interrogation of the Applicant is very much warranted, as the other co-accused involved in the crime in question can be traced/reached through the present Applicant. He further contended that the Applicant knowingly has permitted use of his identity for processing the premature encashment of the insurance policy and also actively participated in the offence.

5. Considered rival submissions.

6. The documents, viz – Adhar card, the personal visit of Applicant to the bank, pretending that he is brother of the policy holder and processing premature encashment of the policy is sufficient to infer involvement of the Applicant in the crime in question. The learned APP was justified in submitting that it is only Applicant who can identify and help in tracing other co-accused. The mode and manner of commission of crime can be investigated only after custodial interrogation.

7. Apart from above, the fact remains that the Applicant appears to be an educated person who has permitted use of his identity and documents for commission of the crime in question. There is sufficient material to infer his *prima facie* involvement in the crime in question.

8. As such, the Anticipatory Bail Application fails. Hence, the same stands rejected.

(NITIN W. SAMBRE, J.)