

VRJ

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

ANTICIPATORY BAIL APPLICATION NO.1705 OF 2023

Amar Vishwas Mane

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Satyavrat Joshi i/by Ms. Shivani Kandekar for the applicant.

Mr. Amit A. Palkar, APP for the respondent/State.

CORAM : AMIT BORKAR, J.

DATED : JUNE 20, 2023

P.C.:

1. Apprehending arrest in connection with C.R. No.492 of 2023 for offences punishable under sections 406, 420, 506 read with section 34 of the Indian Penal Code, 1860 and sections 3 and 4 of the Maharashtra Protection of Interest of Depositors Act, the applicant is seeking pre-arrest bail under section 438 of the Criminal Procedure Code, 1973.

2. According to the informant, the applicant promised handsome returns by investing her amount in the share market. Relying on that promise, the informant in January 2022 handed over amount of Rs.1,00,000/- in cash to the applicant. The informant introduced other persons namely Sadashiv Ambapkar, and one Reshma Mulla. It is alleged that the applicant received an

amount of Rs.19,60,000/- from informant and others. It is alleged that the applicant called upon the informant to have physical relationship as consideration for return of the amount.

3. The applicant along with co-accused filed an application under section 438 of the Criminal Procedure Code, 1973 before the learned Sessions Court, which came to be partly allowed. Applicant's request for relief under section 438 of the Criminal Procedure Code, 1973 was rejected. However, co-accused has been granted pre-arrest bail by order dated 7th June 2022.

4. Learned advocate for the applicant submitted that the applicant is teacher by profession and he is running private tuition classes, which is registered under the Maharashtra Shops and Establishment Act. Since year 2021 he is not dealing with share trading. He is falsely implicated. According to him, the informant is doing money lending business. The informant and another lady lent money to the applicant for purchase of premises to conduct tuition. He has returned amount of Rs.3,84,400/- to the informant by online transaction and Rs.2,83,400/- to Mrs. Shradha Vardhan. Therefore, According to him, the nature of transaction is civil in nature for which remedy lies somewhere else.

5. Learned APP for the state submitted that the applicant's custodial interrogation is necessary as the money needs to be recovered.

6. Having perused the first information report and the papers produced by the learned APP, it appears that prima facie there is money transaction between the applicant and the informant. The

nature of transaction needs to be investigated. At this stage, it appears that the informant and another have paid certain amount to the applicant. It also prima facie appears that the applicant has repaid the informant and her friend total amount of Rs.5,68,800/- by online payment and by cash. Today, the applicant is present in the Court who has filed an affidavit stating that he will deposit amount of Rs.5,00,000/- with the Trial Court within four weeks from today. The said statement is accepted as undertaking to this Court. He further states that he will deposit the amount without accepting the receipt of the amount.

7. On perusal of the nature of transaction and the fact that the applicant has made part repayment and he is ready to deposit Rs.5,00,000/- in the Trial Court within four weeks from today, custodial interrogation of the applicant is not necessary. Hence, following order:

a) In the event of arrest of the applicant in connection with C.R. No.492 of 2023 for offences punishable under sections 406, 420, 506 read with section 34 of the Indian Penal Code, 1860 and sections 3 and 4 of the Maharashtra Protection of Interest of Depositors Act, he shall be released on interim bail on furnishing PR Bond in the sum of Rs.50,000/- along with one or two sureties in the like amount;

b) The applicant shall remain present before the investigating officer on 22nd, 26th, 28th June 2023 between 11:00 a.m. to 02:00 p.m. and, thereafter, as and when called

by the investigating officer;

c) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer;

d) The applicant shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;

8. It is made clear that if the applicant fails to deposit amount of Rs.5,00,000/- in the Trial Court within four weeks from today, this order shall stand recalled without further reference to the Court.

9. The anticipatory bail application stands disposed of in above terms.

(AMIT BORKAR, J.)