

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

ANTICIPATORY BAIL APPLICATION NO. 2124 OF 2022

Somnath Vilas Patole ... Applicant
v/s.
The State of Maharashtra Respondent

**WITH
INTERIM APPLICATION NO. 2689 OF 2022
IN
ANTICIPATORY BAIL APPLICATION NO. 2124 OF 2022**

Mr. Nikhil Sudhakar Sarawade ... Intervenor

In the matter between :-
Somnath Vilas Patole ... Applicant
v/s.
The State of Maharashtra Respondent

Ms. Rekha Musale i/b. Mr. Nitin Rajguru for the Applicant.
Mrs. A.A. Takalkar, APP for the State.
Mr. Ramji T. Kotali for the Intervenor.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 12th APRIL, 2023.

P. C. :-

. This is an Application under section 438 of Cr.P.C. filed by the aforesaid Applicant apprehending his arrest in C.R.No.336/2022 registered with Faujdar Chawdi Police Station, Solapur City for offences punishable under sections 420, 417 r/w. 34 of the Indian Penal Code.

2. Heard learned counsel for the Applicant, learned APP for the State and learned counsel for the Intervenor. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by Nikhil Sudhakar Sarawade. The facts narrated in the FIR prima facie reveal that the Applicant had informed the first informant that Ahirrao, proprietor of Inspire Infrastructure Pvt. Ltd., Nashik had got a tender from MSEDCL to install electricity meters. He agreed to give sub-contract to the first informant on payment of Rs.15,00,000/-. The records reveal that the first informant had paid Rs.15,00,000/- from time to time, as per the details mentioned in the FIR. It is also on record that the Applicant had received Rs.15,00,000/- from the first informant out of which Rs.12,00,000/- were received through bank transaction and Rs.3,00,000/- were received in cash. The Applicant did not give the sub-contract to the first informant on the premise that the tender in favour of Ahirrao was cancelled. The said statement is prima facie a false statement and this fact would prima facie indicate that the Applicant had intention to cheat the first informant right from the inception.

4. Order dated 04/08/2022 records that the Applicant had not made out case for grant of interim protection. Subsequently, on 18/08/2022, the Applicant made a statement that he would deposit Rs.2,00,000/- in the account of the first informant that day itself and Rs.8,00,000/- would be paid within 45 days. The said statement was accepted and in view of the said statement, interim relief was granted. On 22/08/2022, learned counsel for the Applicant had made a statement that the Applicant had already deposited an amount of Rs.2,00,000/- in the account of the first informant and balance amount of Rs.8,00,000/- would be deposited as per the order dated 18/08/2022. Subsequently, time to deposit the balance amount of Rs.8,00,000/- was extended from time to time and in view of the statement made by the learned counsel for the Applicant, interim relief was also continued. It was only on 11/01/2023 that the learned counsel for the Applicant had made a statement that the Applicant is unable to deposit an amount of Rs.8,00,000/-. By order dated 06/04/2023, learned counsel for the Applicant once again made a statement that an amount of Rs.8,00,000/- will be paid to the Intervenor by 11/04/2023. Today, learned counsel for the Applicant once again made a statement that the Applicant is unable to pay the

said amount.

5. The records reveal that the Applicant has obtained interim relief on the basis of false statement that he would deposit an amount of Rs.8,00,000/- within 45 days. Considering the allegations against the Applicant and the material in support thereof as well as the conduct of the Applicant, I am not inclined to exercise discretionary powers under section 438 of Cr.P.C. in favour of the Applicant. Hence, the Application is dismissed. Interim Application stands disposed of in view of dismissal of the Anticipatory Bail Application.

(SMT. ANUJA PRABHUDESSAI, J.)