

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

**ANTICIPATORY BAIL APPLICATION NO.1114 OF 2023
WITH
INTERIM APPLICATION NO.1574 OF 2023
IN
ANTICIPATORY BAIL APPLICATION NO.1114 OF 2023**

Bijal Deepalk Matali @ Patel ...Applicant

Versus

Enforcement Directorate and Anr. ...Respondents

...

Ms Anjali Patil with Ms Mallika Sharma i/b. Mr. Tohid Shaikh for the Applicant.

Mr. Santosh Chari i/b. Ms Shashikala Sharma for the Intervenor.

Ms A.A. Takalkar, APP for the Respondent -State.

Mr. Devidas Gajare, API, Malad Police Station, Mumbai, present.

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CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED: 11th JULY, 2023.

P. C. :-

1. This is an application under Section 438 of the Cr.P.C. filed by the aforesaid Applicant apprehending his arrest in C.R. No.1282 of 2022 registered with Malad Police Station, Mumbai, for the offences punishable under Sections 406 and 420 r/w 34 of the IPC.

2. Heard Ms Anjali Patil, learned counsel for the Applicant, Mr. Santosh Chari, learned counsel for the Intervenor and Ms A.A.

Takalkar, learned APP for the Respondent -State. 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 Bharat Shirkar. The facts narrated in the FIR reveal that the Applicant alongwith the co-accused deceived the Complainant and several others with a promise of high returns. It is stated that the Applicant and the co-accused cheated the victim and misappropriated the amount. It is stated that out of total amount of Rs.1,37,72,662/-an amount of Rs.22,00,000/- was credited into the account of the Applicant. The Applicant has filed her affidavit wherein she has made a voluntary statement to deposit the said amount. The schedule of payment is given in paragraph 4 of the affidavit dated 20/06/2023.

4. It is stated that husband of the Applicant, whose individual liability is stated to be of Rs.20,00,000/- has been released on bail in view of the statement made by him to repay the said amount. It is stated that husband of the Applicant has deposited first installment of Rs.2,00,000/- before the Trial Court.

5. Learned counsel for the Applicant states that the Applicant has already deposited Rs.5,00,000/- being the first installment. She has placed on record the receipt of the deposit. The Applicant has also filed an additional affidavit wherein it is stated that the Applicant and her husband own four flats being Flat Nos.301, 302, 303 and 304 at Malad Natraj Market Co-operative Housing Society Ltd., S.V. Road, Near Malad Railway Station, Malad (west), Mumbai-400064. The Applicant has stated that they had taken loan of Rs.1,50,00,000/- by mortgaging the said flats as collateral security. The Applicant has asserted that the loan installments are being paid regularly and as on date Rs.72,62,609/- is due and payable to the Bank on monthly installment basis. In this affidavit the Applicant has given an undertaking that till the amount of Rs.17,00,000/- is paid, she and her husband will not create any third party rights in respect of the said flats.

6. The application is not decided on merits. The Applicant is granted pre-arrest bail only in view of the voluntary statement made by her. The Applicant is therefore put to notice that the bail order shall stand recalled in case the Applicant fails to abide by the undertaking given to the Court:-

- (i) In the event of arrest of the Applicant in C.R. No.1282 of 2022 registered with Malad Police Station, Mumbai, the Applicant shall be released on bail on furnishing bail bonds in the sum of Rs.40,000/- with one or two sureties to the like amount;
- (ii) The Applicant shall report to the concerned Investigating Officer as and when required by the Investigating Officer for the purpose of investigation;
- (iii) The Applicant shall handover the passport to the Investigating Officer and shall not leave the country without prior permission of the Court;
- (iv) The Applicant shall not tamper with the prosecution evidence and or influence the witnesses in any manner;
- (v) The Applicant shall keep the Investigating Officer

informed of her current address and mobile contact numbers, and /or change of residence or mobile details, if any, from time to time.

7. The application as well as interim application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)