

AGK

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

ANTICIPATORY BAIL APPLICATION NO.1397 OF 2023

Ashish Kumar Jadhav

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Pranav H. Bhoite for the applicant.

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

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CORAM : AMIT BORKAR, J.

DATED : JUNE 30, 2023

PC.:

1. Apprehending arrest in connection with C.R. No.261 of 2023 registered with respondent No.1 for offence punishable under Sections 420 and 506 of the Indian Penal Code, 1860, the applicant is seeking relief of pre-arrest bail under Section 438 of the Criminal Procedure Code, 1973.

2. According to prosecution, the applicant told the informant that he got Rs.80 lakh from his mother's property and he will lend informant an amount of Rs.10 lakh by charging interest of one per cent per month. He asked the informant to bring documents for the purpose of getting loan and Rs.55,000/- in cash towards advocate's fee and three signed cheques for completing procedure. Accordingly, the applicant gave the applicant Rs.25,000/- in cash, three cheques, PAN card and Aadhar Card and

two signed blank papers. He paid an amount of Rs.10,000/- on 22 June 2022. Till date, he has failed to repay the amount of Rs.45,000/- and threatened the informant. He, therefore, lodged a report.

3. Learned APP, on instructions, states that there are ten similar victims from whom the applicant has taken amounts. According to applicant, he has settled with five of the victims. However, that settlement will have no consequence with the acts allegedly done. It appears that the applicant had engaged with victims in similar manner.

4. On 10 May 2023, a coordinate Bench of this Court recorded a statement on behalf of the application that the applicant requires one month's time to make arrangement to deposit sum of Rs.5 lakh towards the amount of applicant and similarly placed other victims. However, the said amount has not been deposited till today.

5. According to the learned advocate for the applicant due to miscommunication the coordinate Bench of this Court wrongly recorded amount of Rs.5 lakh. According to the applicant, the amount is much less and he intended to deposit amount of Rs.1,05,000/-.

6. It is well settled that in case of incorrect recording of facts, only remedy for a litigant is to approach same Bench within reasonable time. This statement was recorded on 10 May 2023. This Court re-opened after summer vacation on 5 June 2023. From 5 June 2023 till 30 June 2023, no efforts are taken by the learned

advocate for the applicant to get the order modified. Therefore, on 30 June 2023 it does not lie in the mouth of the applicant that such statement was recorded incorrectly.

7. However, considering the position brought on record by the investigating officer that similar kind of transaction have been entered into with other ten victims, settlement with five victims is of no consequence as regards the offence which is allegedly committed by the applicant. Such conduct of the applicant does not deserve discretionary relief under Section 438 of the Criminal Procedure Code, 1973.

8. The anticipatory bail application, therefore, stands rejected. No costs.

(AMIT BORKAR, J.)