

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

ANTICIPATORY BAIL APPLICATION NO. 1422 OF 2023

Bhimgonda Kumgonda Patil ...Applicant

vs.

The State of Maharashtra ...Respondent

Mr. Hitendra Gandhi - Advocate for the Applicant

Mr. Y. Y. Dabke – APP for the Respondent-State

ASI Prakash L. Patil – Bhilwadi Police Station, Sangli

CORAM : S. M. MODAK, J.

DATE : 29th MAY, 2023

P. C. :-

1. Heard learned Advocate for the Applicant and learned APP

2. The present Applicant is seeking anticipatory bail in C.R. No. 24 of 2023 registered with Bhilwadi Police Station, District Sangli. It is for the offence punishable under Sections 420, 406 of the Indian Penal Code and Section 3 of the MPID Act. The first informant-Ashishkumar was introduced to the present Applicant by one Abhinandan. The said Abhinandan is brother-in-law of the first informant-Ashishkumar. The present Applicant explained about the

investment in Doxy Crypto currency which will fetch a return at the rate of 30% for a period of 12 months. The first informant believed those promises and invested Rs. 3 Lakhs on 10/06/2022 and Rs. 5 Lakhs on 22/06/2022 in cash. By way of gesture, the present Applicant has created Doxy Crypto currency IDs in the name of the first informant. For that purpose the mobile handset of the first informant was used. This mobile handset is seized during investigation and it is sent for forensic analysis and report is awaited.

3. As the Applicant has not fulfilled his promise, the first informant has realized that he is being cheated and that is why he lodged the complaint with Bhilwadi Police Station on 27/03/2023. His anticipatory bail application is rejected by the Court of Sessions Judge, Sangli. With the help of both the sides, I have perused that Order. The reason finds place in para no. 9. There is notice given under Section 41-A of the Criminal Procedure Code dated 05/04/2023. Its copy is annexed at page no. 53.

4. Learned Advocate for the Applicant tried to convince this Court that in fact he is also victim. My attention is invited to joint complaint lodged by various persons. Out of them, the present Applicant is one of them. It is addressed to the Superintendent of

Police, Kolhapur. On the basis of the said complaint, the Gandhi Nagar Police Station, Kolhapur has registered offence against in all six persons under Sections 406, 420, 409, 120-B read with 34 of the Indian Penal Code and under Sections 3 and 4 of the MPID Act and under Section 21 of the Banning of Unregulated Deposit Scheme Act, 2019.

5. Even though that may be true but the present offence is different. Learned APP submitted that apart from the first informant there are five more victims who have also handed over cash to the present Applicant. Out of them, he read over one statement. The total amount invested by five witnesses comes to Rs. 13,60,000/- approximately.

6. At this stage, learned Advocate for the Applicant has shown readiness to deposit the amount in question without prejudice to the rights of the victims. Whereas according to the learned APP investigation is going on and there may be more persons who will come forward. Even though it may be true that the Applicant has shown readiness to deposit the amount, the question is not only about recovery of the amount but considering the *modus-operandi* custodial interrogation is required, so no case for anticipatory bail is

made out.

7. This Court is inclined to grant liberty to the present Applicant to move before the Court of the Sessions with a request to deposit the amount involved in the offence. If such application is moved, the learned Additional Sessions Judge after hearing the prosecution is at liberty to pass an appropriate order. It is made clear that this Court has decided about merits of the anticipatory bail. So if the Applicant will approach the Court of Sessions for anticipatory bail, the scope of hearing will be restricted as to whether the Applicant wants to deposit the misappropriate amount or not. If deposited then one of the ground for custodial interrogation will be minimized. On this background fresh anticipatory bail application can be decided.

8. With these observations, the anticipatory bail application is rejected.

[S. M. MODAK, J.]