

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

ANTICIPATORY BAIL APPLICATION NO.1423 OF 2023

Ms Hemangi Rajendra Tondwalkar ...Applicant

Versus

The State of Maharashtra ...Respondent

...

Mr. Prasad Panchal with Ms Neha Rane and Mr. Ravi Mungekar for the Applicant.

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

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED: 6th JULY, 2023.

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P. C. :-

1. This is an application under Section 438 of the Cr.P.C. filed by the aforesaid Applicant apprehending her arrest in C.R. No. 989 of 2022 registered with Kandivali (West) Police Station, Mumbai, for the offences punishable under Sections 406 and 420 r/w 34 of the IPC.

2. Heard Mr. Prasad Panchal, learned counsel for the Applicant 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 Akshay Suryakant Shinde. The facts narrated in the FIR prima facie reveal that on 19/09/2019 the Applicant herein informed the First Informant that the co-accused, who was her childhood friend and employed as a motorman in Indian Railways, could secure a job in the Indian Railways on payment of Rs.1,50,000/-. The First Informant informed his sister about the job offer. It is stated that the Applicant as well as Co-accused Sumit Adawade received from them total amount of Rs.6,42,300/- under the pretext of providing employment. The Applicant and the co-accused thus cheated the First Informant and his sister and misappropriated the amount paid to them.

4. The FIR prima facie reveals that the Applicant had Received an amount of Rs.78,500/-. The First Informant claims that he had paid to the Applicant an amount of Rs.5,03,800/- in cash. Hence amount allegedly received by the Applicant is Rs.5,82,300/- and the balance amount was paid to the co-accused-Adawade.

5. Learned counsel for the Applicant states that the Applicant herein has already deposited an amount of Rs.37,000/- before the Investigating Officer. The Applicant had earlier filed an affidavit dated

04/07/2023 stating that she would be paying an amount of Rs.50,000/- to the First Informant. Learned counsel for the Applicant has placed on record additional affidavit stating that in addition to the amount of Rs.50,000/- as stated in affidavit dated 04/07/2023 the Applicant is ready and willing to deposit an amount of Rs.1,50,000/- within a period of three weeks from 18/07/2023. Learned counsel for the Applicant, under instructions states that the Applicant shall not have any objections if the amount of Rs.2,00,000/- deposited by the Applicant is paid to the First Informant and his sister. He further states that the Applicant is at advanced stage of pregnancy.

6. Considering the willingness shown by the Applicant to repay the amount, in my considered view this would be a fit case to exercise discretion under Section 438 of the Cr.PC. in favour of the Applicant. Hence, the application is allowed on the following terms and conditions:-

- (i) In the event of arrest of the Applicant in C.R. No. 989 of 2022 registered with Kandivali (West) Police Station, Mumbai, she is ordered to be released on bail on furnishing bail bonds in the sum of Rs.25,000/- 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 not tamper with the prosecution evidence and or influence the witnesses in any manner;
- (iv) 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 stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)