

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

ANTICIPATORY BAIL APPLICATION NO.1747 OF 2023

Sumit Suresh Adawade

...Applicant

Versus

The State of Maharashtra

...Respondent

...

Mr. Suresh K. Mali with Mr. Vishnu L. Chandnani for the Applicant.

Mr. S.V. Gavand, APP for the Respondent -State.

Mr. Dilip Pawar, PI , Kandivali Police Station, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED: 3rd 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. 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. Suresh Mali, learned counsel for the Applicant and Mr. S.V. Gavand, 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 co-accused-Hemangi Tondwalkar informed the First Informant that the Applicant herein, who was her childhood friend and employed as a motorman in Indian Railways, could secure a job in Indian Railways on payment of Rs.1,50,000/-. The First Informant and his sister met the co-accused on 22/09/2019. She informed them that the Applicant herein was out of station and that he would secure job for both for Rs.3,00,000/-. He paid an amount of Rs.2,50,000/- to the co-accused-Hemangi and filled some forms at her instance.

4. As instructed by the co-accused-Hemangi, the First Informant and his sister went to Mumbai Central Railway Station on 23/10/2019 at 11.00 a.m. The Applicant came after some while and told them that the reporting time had lapsed and since they were late by five minutes they had to pay fine of Rs.13,200/-, which they paid to the co-accused Hemangi by Google pay. The First Informant and his sister were once again called to Mumbai Central Railway Station on 01/11/2019. The Applicant came with a register and collected their passport size photographs and Aadhar card and went to the office. He

returned some time later and told the sister of the First Informant that the file could not be processed since she had worn jeans and t-shirt. She was made to pay fine of Rs.6,300/- for wearing such clothes.

5. The co-accused once again called him to KEM hospital for medical test and later to Mumbai Central Railway Station on 03/11/2019. He was told to pay Rs.1,60,000/- if he desired to get a job for his elder sister. Accordingly, the First Informant sent Rs.20,000/- through Google Pay and paid an amount of Rs.90,000/- in cash and transferred an amount of Rs.50,000/- in the account of the Applicant in Kotak Mahindra Bank. The FIR reveals that another person by name Jayesh had also transferred an amount of Rs.60,000/- in the account of the Applicant and paid an amount of Rs.1,03,000/-, to the co-accused on an assurance that he would be given a job. In addition they transferred total amount of Rs.22,800/- i.e. Rs.8,800/- towards hostel expenses, Rs.8,000/- towards policy premium and Rs.6,000/- as diwali gift, the bank account of the co-accused.

6. Since they were not offered any job, the First Informant tried to contact the Applicant but realized that the Applicant has blocked his number. The co-accused, when contacted, gave evasive

replies. The Applicant and the co-accused did not return the money. Hence, the FIR.

7. The material on record prima facie shows the involvement of the Applicant and the co-accused in inducing the complainant and others to pay the money by deceiving them that they would be offered employment in Indian Railways. The Applicant is prima facie involved in committing offence of cheating and misappropriation. The investigation is at initial stage. Considering the nature of accusations and the material in support thereof, this is not a case to exercise discretion under Section 438 of the Cr.P.C. Hence, the application is dismissed.

**PREETI
HEERO
JAYANI**

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by PREETI
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(SMT. ANUJA PRABHUDESSAI, J.)