

Santosh

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

ANTICIPATORY BAIL APPLICATION NO. 2545 OF 2023

SANTOSH
SUBHASH
KULKARNI

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Date: 2023.09.12
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Rahul Jagdish Gaikwad ...Applicant
Versus
State of Maharashtra ...Respondent

Mr. Abhijeet Joshi, for the Applicant.
Mr. R. M. Pethe, APP for the State/Respondent.

CORAM: N. J. JAMADAR, J.
DATED: 11th SEPTEMBER, 2023

ORDER:-

1. Heard the learned Counsel for the applicant and the learned APP for the State.
2. This is an application for pre-arrest bail in connection with CR No.251 of 2023, registered with Faujdar Chawady Police Station, Solapur, for the offences punishable under Sections 420 and 409 read with Section 34 of Indian Penal Code, 1860 ("the Penal Code").
3. The first informant lodged a report with the allegation that named accused Vijaykumar Tangade, his wife Vrushali and Ajay Ram Pawar, the proclaimed contractor had induced him to part with an amount of Rs.4,25,000/- by making a false representation of awarding him a contract to install

smart electricity meters. The first informant claimed that an amount of Rs.1,00,000/- was paid in cash and the balance amount of Rs.3,25,000/- came to be transferred to the accounts of the named accused.

4. The applicant was named in the remand report as the person to whom the abovenamed accused had transferred a sum of Rs.50,000/-.

5. Apprehending arrest the applicant approached the Court of Session. The learned Additional Sessions Judge declined to exercise the discretion in favour of the applicant.

6. The learned Counsel for the applicant submitted that the applicant had no role in the alleged offences. He has been roped in on the basis of a bald assertion that a sum of Rs.50,000/- was transferred to the account of the applicant by accused No.1 Vijaykumar Tangde.

7. The learned APP submitted that the statement of the co-accused indicates that a sum of Rs.50,000/- was transferred to the account of the applicant after the first informant was induced to part with the amount.

8. *Prima facie*, the first informant does not allege that the applicant had either made a false representation or induced

the first informant to part with the amount. Mr. Joshi, the learned Counsel for the applicant, submitted that from the perusal of the allegations in the FIR, it becomes abundantly clear that the first tranche of transfer by the first informant was on 12th December, 2021, whereas the said amount of Rs.50,000/- was credited to the account of the applicant on 10th December, 2021. Thus there is a *prima facie* no nexus between the aforesaid payment and the amount of which the first informant was allegedly defrauded with.

9. The applicant appears to be gainfully employed and has roots in the society. I am, therefore, inclined to exercise the discretion in favour of the applicant.

10. Hence, the following order:

: O R D E R :

- (i) In the event of arrest of the applicant in CR No.251 of 2023, registered with Faujdar Chawady Police Station, Solapur, the applicant be released on bail on furnishing a PR Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

- (ii) The applicant shall cooperate with the investigation and attend Faujdar Chawady Police Station on every alternate Sunday in between 10.00 am. to 1.00 pm. for a period of one month.
- (iii) The applicant shall not tamper with the prosecution evidence and give threat or inducement to the first informant or any person acquainted with the facts of the case.
- (iv) The applicant shall regularly attend the proceedings before the jurisdictional Court.
- (v) It is clarified that these *prima facie* observations are confined to determine entitlement to pre-arrest bail only.

Application stands disposed.

[N. J. JAMADAR, J.]