



Sayali Upasani

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

ANTICIPATORY BAIL APPLICATION NO. 3016 OF 2023

Nilesh Navnath Kalsait

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. Vivekanand Krishnan with Chaitali Bhogle, for Applicant.

Mr. N. B. Patil, APP for State.

Mr. S. D. Palve, API, Manpada Police station, Present.

CORAM:- N. J. JAMADAR, J.

DATED:- 31st OCTOBER, 2023

PC:-

1) Heard the learned counsel for the applicant and the learned APP for the State.

2) This application is preferred for pre-arrest bail in connection with C.R. No. 33 of 2023, registered with Manpada Police Station, for the offences punishable under Sections 406, 420 and 506 read with Section 34 of Indian Penal Code, 1860 ("the Penal Code").

3) The first informant runs a pharmacy. He intended to start another pharmacy. Dinesh Patel had introduced the first informant to the applicant, who represented that a new Hospital, “Anjali Hospital” was to be started at Kalyan East. The first informant and his relative Dhanaram Solanki decided to start a pharmacy, in partnership, in the said hospital. The first informant alleges that the first informant and Dhanaram were induced to enter into agreements and transfer an amount of Rs.66,00,000/- in the account of the accused No. 1 – Kalpana Bhaumik, the proprietress of Anjali Hospital. However, the hospital was not started. Eventually, the Proprietress of Anjali Hospital stated that the hospital would not start soon. Thereupon, a notice was issued to Kalpana to refund the amount. She had drawn the cheques, which were dishonoured on presentment. Hence, the report.

4) The learned Counsel for the applicant submitted that the applicant was working as an employee with Anjali Hospital neither was he the proprietor of Anjali Hospital, nor any amount was credited to his account. He has been falsely roped in.

5) The learned APP, on the other hand, submitted that it was the applicant who had made the initial representation and

induced the first informant and his relative Dhanram to part with the amount.

6) From the perusal of the allegations in the FIR, it appears that the hospital in which the pharmacy and laboratory which to be started by the first informant and Dhanaram could not be made. Eventually, the proprietress of the hospital Kalpana issued cheques to refund the amount and those cheques were dishonoured.

7) It prima facie appears that the amount was credited to the account of Anjali Hospital. Conversely, no amount seems to have been credited to the account of the applicant. The question as to whether the intention of the parties was dishonest since the inception of the transaction would arise for adjudication.

8) In the circumstances, the custodial interrogation of the applicant does not seem to be warranted. I am, therefore, inclined to exercise discretion in favour of the applicant.

9) Hence, the following order:-

ORDER

I) In the event of arrest of the applicant in connection with C.R. No. 33 of 2023, registered with Manpada Police Station, for the offences punishable under Sections 406,

420 and 506 read with Section 34 of Indian Penal Code, 1860, the applicant be released on bail on executing a PR Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

II) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant and any of the persons acquainted with the facts of the case.

III) The applicant shall co-operate with the investigation and attend Manpada police station on 7th, 8th and 9th November, 2023 in between 10.00 am to 1.00 pm and as and when directed by the Investigating Officer.

IV) It is clarified that these *prima facie* observations are confined to determine the entitlement to pre-arrest bail only.

V) The application stands disposed.

[N. J. JAMADAR, J.]