

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

ANTICIPATORY BAIL APPLICATION NO. 3243 OF 2023

SANTOSH
SUBHASH
KULKARNI

Digitally signed by
SANTOSH SUBHASH
KULKARNI
Date: 2023.12.02
17:20:06 +0530

Pravin Namdeo Patil

...Applicant

Versus

State of Maharashtra and anr.

...Respondents

Mr. Amit Mane, for the Applicant.

Smt. Ashwini Takalkar, APP for the State/Respondent.

PSI Dipak Ghuge, Kalwa Police Station, Thane City, present.

CORAM: N. J. JAMADAR, J.

DATED: 1st DECEMBER, 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.565 of 2023, registered with Kalva Police Station, Thane City, for the offences punishable under Sections 406 and 420 of the Indian Penal Code, 1860 ("the Penal Code").
3. The first informant had a car bearing registered No. MH-04-GJ-7577. The first informant desired to sell the said car and purchase a new one. Co-accused Babu Shaikh, a car mechanic, introduced the first informant to the applicant.
4. The first informant alleged the applicant and co-accused induced him to deliver the car by making a

representation that it would be sold for Rs.5,50,000/-. After few days, the first informant enquired with the applicant and the co-accused about the said car and the sale thereof. They started to avoid the first informant. Further enquiries revealed that the applicant and the co-accused had deceived many persons in similar fashion. Hence, the first informant lodged the report.

5. The learned Counsel for the applicant submitted that the said car has since been recovered. Thus, at this stage, in the backdrop of the nature of the accusation and the punishment which the offences under Sections 408 and 420 entail, custodial interrogation of the applicant is not warranted.

6. It is true that the offence punishable under Section 420 entails maximum punishment of seven years. Ordinarily, the Court would have exercised the discretion in favour of the applicant. However, the antecedents of the applicant dissuade the Court from exercising the discretion in favour of the applicant. It seems that the applicant has been pursuing a course of deception by inducing persons to enter into apparently legitimate commercial transactions. A number of crimes, majority of them for an offence punishable under

Section 420, have been registered against the applicant. It seems the applicant has made himself scarce. The learned Counsel for the applicant attempted to salvage the position by submitting that few of the complaints under Section 138 of the Negotiable Instruments Act, 1881, are pending against the applicant and in those complaints non-bailable warrants have been issued.

7. However, the report submitted by the Investigating Officer indicates that a number of crimes for the offences punishable under Sections 420 and 406 have been registered against the applicant. In three of the prosecutions, non-bailable warrants have been issued against the applicant. In the circumstances, the applicant does not deserve the exercise of discretion.

8. Hence the following order:

: O R D E R :

- (i) Application stands rejected.
- (ii) It is clarified that these *prima facie* observations are confined to determine entitlement to pre-arrest bail only.

[N. J. JAMADAR, J.]