



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.3394 OF 2023**

Ajay Lalbahadur Tiwari	...	Applicant
versus		
The State of Maharashtra	...	Respondent

Mr. Rakesh R. Singh, for Applicant.
Ms. Anamika Malhotra, APP for State.
Mr. N.S.Landge, PSI Khadakpada Police Station, present.

CORAM: N.J.JAMADAR, J.

DATE : 6 DECEMBER 2023

P.C.

1. Heard the learned Counsel for the parties.
2. This is an application for pre-arrest bail in connection with C.R.No.154 of 2023 registered with Khadakpada Police Station for the offences punishable under Sections 406, 420 of the Indian Penal Code.
3. The first informant alleged that during the period 2014-15, the applicant and co-accused Suresh Dulani and Vivek Gupta, who were the partners of Spectra Glazing, induced him to make investment for the purpose of executing works contract by representing that they would thereby get Rs.1 Crore and that the first informant would be posted as a Supervisor on the said work and would get a monthly salary of Rs.1 Lakh. The first informant claimed to have invested a sum of Rs.57 Lakhs. However, the applicant and the co-accused did not pay the amount, as promised, nor

refund the amount which was invested by the first informant.

4. In ABA No.3374 of 2023, this Court has granted pre-arrest bail to co-accused Suresh Dulani. Prima facie, there is an inordinate delay in lodging the FIR. It also appears that the dispute is pre-dominantly of civil nature. It seems that the partners of the firm had executed an agreement with the first informant, under which the latter had invested the amount. It further appears that a cheque of Rs.36 Lakhs drawn by the firm in favour of the first informant was dishonoured on presentment in the year 2016. Yet FIR came to be lodged in the year 2023.

5. In the circumstances of the case, whether the intention of the applicant was dishonest since the inception of the transaction or it was a case of failure to perform a promise would warrant consideration.

6. In any event, custodial interrogation of the applicant is not warranted to facilitate further investigation. Thus, having regard to the nature of the accusation and the punishment which the offence under Section 420 IPC entails, I am inclined to exercise discretion in favour of the applicant.

7. Hence, the following order :

ORDER

(i) In the event of the arrest of the Applicant – Ajay Lalbahadur Tiwari in connection with C.R.No.154 of 2023 registered with Khadakpada Police Station, 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 co-operate with the investigation and report to Khadakpada Police Station on 14th and 15th December 2023 in between 10.00 a.m. to 1.00 p.m., and thereafter, as and when directed.

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

(iv) The Applicant shall regularly attend the proceedings before the jurisdictional Court.

(v) The application stands disposed.

(vi) It is, however, clarified that the observations are confined to the consideration of entitlement for pre-arrest bail and the trial Court shall not be influenced by any of the observations in further proceedings.

(N.J.JAMADAR, J.)