

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

ANTICIPATORY BAIL APPLICATION NO.178 OF 2024

Ketan Babubhai Rambhia Applicant

versus

State of Maharashtra Respondent

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- Mr. Shailendra Mishra a/w Prem Tanna, Advocate for Applicant.
- Ms. Pallavi N. Dabholkar, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 22nd JANUARY, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.879/2022, dated 27/08/2022, registered with Goregaon Police Station, Mumbai, under sections 120, 120-B, 255, 256, 259, 406, 415, 418, 420, 459, 463, 468, 474, 471 r/w 34 of the Indian Penal Code.

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2. Heard Mr. Shailendra Mishra, learned counsel for the Applicant and Ms. Pallavi N. Dabholkar, learned APP for the State.

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3. The FIR is a result of the order passed u/s 156(3) of Cr.P.C. The FIR is lodged by one Smita Dhamapurkar. Initially, the complaint was given on her behalf on 17/02/2022 to the Senior Inspector of Police, Goregaon Police Station, regarding the same subject matter. The FIR mentions that the Applicant and his father were having a provision store. They were also in the business of finance and construction. The first informant had received substantial amount after her retirement. She was also in the search of a house. It is her case that the Applicant was aware of this fact. He told her that if she invested some money with him, he would give interest at 16% per annum and whenever she wanted her money back, he would return the principal amount. Based on this representation, the informant gave him Rs.9 lakhs in two installments dated 20/08/2020 and 09/09/2020. After the money was paid, as the Applicant had told her that he would give flat on concessional rate, the informant asked the complainant to show that flat. The Applicant did not show any flat on the pretext that the construction was not completed. After six months, the Applicant

avoided the informant. He did not pay the interest. He had not issued any receipt. Therefore, at the instance of the informant, he executed two documents on two separate stamp papers, mentioning that he had received the amount of Rs.4 lakhs and Rs.5 lakhs respectively for a period of three years, at 16% per annum rate of interest. Even after some more days, nothing further transpired. The informant came to know that there were many such people who had invested with the Applicant and who had lost their money. The informant realized that she was cheated and her money was lost. On this basis, the FIR is lodged.

4. Learned counsel for the Applicant submitted that the other victim had lodged FIR of C.R.No.82/2022 at the same Goregaon police station on 15/02/2022. In that case, the investigation was carried out and the charge-sheet was filed u/s 260, 262, 420, 465, 467, 468, 471 and 120-B of the IPC. In that case, it was specifically alleged against the Applicant that he had obtained money from different investors and the money

ultimately was not returned. He had executed documents on the forged stamp papers. In the present case also allegations are made that stamp papers used by the present Applicant for executing his acknowledgment in favour of the present informant, was executed on forged stamp papers. Learned counsel therefore submitted that the subject matter of the present FIR is exactly the same as that of the earlier FIR registered vide C.R.No.82/2022.

5. He submitted that the first informant in this case had given complaint to the police on 17/02/2022 regarding amount of Rs.9 lakhs. But there was no mention of any flat. He submitted that the story of the flat and the money having been given for the purchase of a flat was an afterthought, which was not a part of the earlier application. He submitted that the present FIR is in the nature of second FIR. In the earlier case, the Applicant was arrested and was in custody for at least 10 months. He was released on bail. At that time, the investigating agency had thoroughly investigated the case and had

interrogated the Applicant. Therefore, based on the similar allegations, the Applicant's custodial interrogation is not necessary.

6. Learned APP submitted that the present subject matter is restricted to the loss caused to the first informant Smita. Therefore, it is a separate subject matter and it is not in the nature of the second FIR. However, she conceded that in the earlier FIR, the question of use of forged stamp papers was also considered and it was investigated. At that time, there were other victims. Those were 70 to 80 in numbers. Therefore, the investigating agency had an opportunity to investigate in respect of the allegations of investment made by all the victims.

7. I have considered these submissions. From the record it is quite clear that the Senior Inspector of Goregoan Police Station, was aware of the grievance of the first informant Smita on 17/02/2022 itself. At that time, the investigation into C.R.No.82/2022 was going on, as the said offence was

registered on 15/02/2022 itself. The investigating agency's case is that there were many other victims like the informant in C.R.No.82/2022. Then obviously, the present informant Smita was also one of the investors/victims, who had lost her money. Therefore, I find substance in the submissions of learned counsel for the Applicant that investigating agency had full opportunity to investigate into the allegations or investment made by the investors including Smita. Therefore, at this stage, again subjecting the Applicant for custodial interrogation, on similar allegations is not warranted. As far as the allegations of forgery of stamp papers are concerned, the earlier investigation covered that issue as well. Therefore, for that purpose also, the Applicant's custodial interrogation is not necessary.

8. Considering this discussion, the Applicant can be protected u/s 438 of Cr.P.C. with directions to him to attend the concerned police station and to cooperate with the investigation.

9. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.879/2022, dated 27/08/2022, registered with Goregaon Police Station, Mumbai, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The Applicant shall attend the concerned Police Station from 05/02/2024 to 08/02/2024 between 01.00 to 05.00 p.m. and thereafter as and when called and shall cooperate with the investigation.
- (iii) The application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)