

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

ANTICIPATORY BAIL APPLICATION NO. 539 OF 2024

Subhash Narayan Aaher	 Applicant
Versus	
The State of Maharashtra	 Respondent

YUGANDHARA
SHARAD
PATIL

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Ms. Monika Poonia, for the applicant.
Ms. Pallavi N. Dabholkar, APP for the State/Respondent.

**CORAM :SARANG V. KOTWAL, J.
DATE : 27th FEBRUARY, 2024**

P.C. :

1. The Applicant is seeking Anticipatory bail in connection with C.R. No. I-25 of 2024, dated 18/01/2024 registered at Bhadrakali Police station, Nashik, under sections 420 and 406 of the Indian Penal Code.
2. Heard Ms. Monika Poonia, learned counsel for the Applicant and Ms. Pallavi Dabholkar, learned APP for the state.
3. The FIR is lodged by one Kishor Ghodake. He has stated that on 07/10/2022, the Applicant approached him and suggested to him that they could get a contract for tree cutting in

the Nashik Municipal Corporation area. For that purpose they needed to deposit Rs. 5 lakhs. The Applicant requested the informant to give that amount. According to the informant, he had paid Rs. 4,50,000/- to the Applicant. The informant made inquiry in the Nashik Municipal Corporation. He came to know that no such contract was invited by the Nashik Municipal Corporation. The informant demanded refund of this amount from the Applicant. He refused on some pretext or the other. The informant realised that he was cheated and had lost his money. On this basis, the FIR is lodged.

4. Learned counsel for the Applicant submitted that the allegations in the FIR are not true. There were regular transactions between the Applicant and the informant. Learned counsel relied on the bank entries annexed to this Application. Those entries show that various amounts were transferred from the Applicant's account to the joint account of the informant and his wife. She further submitted that the allegations in the FIR are not true and the first informant has not told correct and complete facts in the FIR.

5. Learned APP, on the instructions of the investigating agency, submitted that the bank entries show that the applicant has paid Rs. 2,52,000/- to the informant and his wife in their joint account.

6. I have considered these submissions. The bank entries are clear. As submitted by learned APP, amount of Rs. 2,52,000/- has been paid by the Applicant to the informant. This fact is not mentioned by the informant in his FIR. He has not spoken about any previous or subsequent transactions between the two of them. The first informant has not narrated the entire correct facts. Therefore sufficient doubt is created about the commission of the offence by the Applicant.

7. In this view of the matter, custodial interrogation of the Applicant will not be justifiable. He can be protected under section 438 of Cr.P.C. It is made clear that these observations are made only for deciding this anticipatory bail application. Hence, the following order.

ORDER

- (i) In the event of his arrest in connection with C.R. I-25 of 2024, registered at Bhadrakali Police station, Nashik, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs. 30,000/- (Rs. Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The Applicant shall co-operate with the investigation.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)