

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

**ANTICIPATORY BAIL APPLICATION NO.133 OF 2024
WITH
INTERIM APPLICATION NO.865 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO.133 OF 2024**

Mahendra Pratap Yadav & Anr. Applicants

versus

State of Maharashtra Respondent

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- Mr. Sameer Nangre, Advocate for Applicant.
- Smt. Manisha R. Tidke, APP for the State/Respondent.
- Mr. S. R. Mishra, Advocate for Intervenor.

**CORAM : SARANG V. KOTWAL, J.
DATE : 09th AUGUST, 2024**

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.1086/2023, dated 24/11/2023, registered with Sakinaka Police Station, Mumbai, under sections 406, 420, 506(2) r/w 34 of the Indian Penal Code.

2. Heard Mr. Sameer Nangre, learned counsel for the Applicant, Mr. S. R. Mishra, learned counsel for the Intervenor and Smt. Manisha R. Tidke, learned APP for the State.

3. The FIR is lodged by one Shambhu Sharma. The gist of the FIR is that both the Applicants represented to the first informant that they were in a position to get catering contract for the first informant from Oil Natural Gas Corporation (ONGC). They represented to him that certain amount was required to be given to the Ex-General Manager at ONGC. On this representation, the Applicants obtained Rs.37 lakhs. But after a few days, the informant came to know that the contract was given to some other company. The informant realized that he had lost his money. He pursued the matter with the Applicants. The Applicant No.1 issued three post-dated cheques for the total amount of Rs.31 lakhs. Those cheques were dishonoured. Only the amount of Rs.4,50,000/- was repaid. Thus, the informant had suffered the loss to the tune of Rs.32,50,000/-. On this basis, the FIR is lodged.

4. Learned counsel for the Applicants relied on the notice dated 02/02/2023, issued by the Advocate for the informant's brother. The three cheques mentioned hereinabove were issued

in the name of the informant's brother. In that notice, it was clearly mentioned that the amount pertaining to those dishonoured cheques were in respect of the loan given to the Applicants. The cheques were issued in repayment of this amount of the cheque. Learned counsel for the Applicants therefore submitted that the story in this notice is completely contrary to the story in the FIR. Hence on the face of it, the allegations in the FIR are not correct.

5. Learned counsel for the Intervenor/first informant submitted that the notice issued by the Advocate for the informant's brother was based on incorrect submissions supplied to the Advocate. The reality is that the amount was taken by the Applicants on some pretext as mentioned in the FIR. The informant has suffered loss to the tune of that amount. Therefore, the offence is made out.

6. On the previous occasion, vide the order dated 19/01/2024, I had protected the Applicants by way of ad-interim order and I had directed the Applicants to cooperate

with the investigation. Today, the learned APP on instructions makes a statement that the Applicants have attended the concerned police station as and when called and have cooperated with the investigation.

7. I find substance in the submissions of the learned counsel for the Applicants. Two contrary stories are made in the FIR and the notice sent on behalf of the informant's brother. There is reference to the informant's name as well in the said notice dated 02/02/2023. Therefore, there is a reasonable possibility that there was some other monetary transaction than what is mentioned in the FIR. The Applicants have attended the police station and have cooperated with the investigation. In this view of the matter, the custodial interrogation of the Applicants is not necessary. They will have to continue to cooperate with the investigation. It is made clear that all these observations are made only for deciding this application.

8. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with

C.R.No.1086/2023, dated 24/11/2023, registered with Sakinaka Police Station, Mumbai, the Applicants are directed to be released on bail on their furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) each, with one or two sureties each, in the like amount.

- (ii) The Applicants shall continue to cooperate with the investigation.
- (iii) The application stands disposed of accordingly.
- (iv) With the disposal of the Anticipatory Bail Application, the Interim Application is also disposed of.

(SARANG V. KOTWAL, J.)