

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

ANTICIPATORY BAIL APPLICATION NO. 159 OF 2024

Swapnil Balasaheb Pol

..Applicant

Versus

The State of Maharashtra

..Respondent

Mr. P. B. Shah a/w. Kaywal Shah a/w. Suraj Gurav a/w. Jayashree
Mane i/b. Aditya D. Gurav for Applicant.

Ms. Sharmila S. Kaushik, APP for State/Respondent.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 19 JANUARY 2024

P.C. :-

1. The Applicant is seeking anticipatory bail in connection with C.R.No.204 of 2023, registered at Deccan Police Station, Pune city, on 08.12.2023, under Sections 406, 408 and 420 of the Indian Penal Code.

2. Heard Mr. Shah, learned counsel for the applicant and Ms. Sharmila Kaushik, learned APP for the State.

3. The F.I.R. is lodged by one Shubham Sancheti. The applicant was working with his office as the Customer Relationship

Manager since April 2022. The nature of his duties was to complete the documentation, collect stamp duty, registration fees and G.S.T. The informant's company had a separate bank account by the name Mihir Homes Reality for making the payment for stamp duty. The F.I.R. mentions that, making the payment of the T.D.S. by the purchaser and customer was not a part of the job of the informant's company. Therefore, the applicant was never told to take the TDS from the customers and to make payment with the Government. In spite of that, the informant received complaints from many purchasers that different amounts of T.D.S. were collected by the applicant, but they were not deposited with the Government and thus, he had committed misappropriation of Rs.61,73,100/-. On this basis the F.I.R. was lodged.

4. Learned counsel for the applicant submitted that the F.I.R. is based on misinformation. In fact, the applicant has deposited that T.D.S. amount with the Government and the Chartered Accountant M/s. Azam Mulani & Associates have given a certificate that the amount of Rs.61,52,786/- has been paid to the Central Board of Direct Taxes from one S.B.I. account. Learned

counsel submits that it is the applicant's account and, therefore, no offence is committed. Learned counsel has filed additional affidavit in the court today. It is taken on record.

5. Learned APP submitted that the applicant has never attended the police station to explain this fact and, therefore, his claim could not be verified as of today. She submitted that the applicant be directed to attend the concerned police station, so that, the police can verify his claim. He be directed to produce the requisite documents.

6. Considering this situation, I am adjourning the matter with ad-interim protection to the applicant and with direction to him to co-operate with the investigation.

7. Hence, the following order.

ORDER

- i) In the event of his arrest in connection with C.R.No.204 of 2023, registered at Deccan Police Station, Pune city, till the next date, the Applicant be released on bail on his executing P. R. bond in

the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

- ii) This order shall operate till 27/02/2024.
- iii) The Applicant shall attend the concerned Police Station from 06/02/2024 to 09/02/2024 between 1.00p.m. to 5.00p.m. and thereafter as and when called. The applicant shall cooperate with the investigation.
- iv) Stand over to 27/02/2024.

(SARANG V. KOTWAL, J.)