

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

ANTICIPATORY BAIL APPLICATION NO.565 OF 2024

Navin Prakash AlhatApplicant
Versus
The State of Maharashtra
and another Respondents

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WITH

ANTICIPATORY BAIL APPLICATION NO.567 OF 2024

1. Prakash Dattatraya Alhat, &
2. Nita Prakash AlhatApplicants
Versus
The State of Maharashtra
and another Respondents

Mr. Abhishek R. Avachat, Advocate for the Applicants.
Mr. Shrikant H. Yadav, APP for the Respondent-State.
Mr. Vilas Tapkir, Advocate for Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 27th JUNE, 2024

P.C. :

1. In both these applications, today a common order is passed because they arise out of the same offence.

2. The Applicants are seeking anticipatory bail in connection with C.R. No.114/2024 registered at Hadapsar

police station, Pune on 17.1.2024 under Sections 420, 406 read with 34 of IPC.

3. Heard Mr. Abhishek Avachat, learned counsel for the Applicants, Mr. Shrikant Yadav, learned APP for the Respondent-State and Mr. Vilas Tapkir, learned counsel for Respondent No.2.

4. The F.I.R is lodged by Tushar Surve. The gist of the FIR is that the applicants' family and the Informant's family had long standing friendly relations. Earlier they used to stay in the same building. The applicant Navin was a childhood friend of the Informant. The gist of the FIR is that the applicants represented to the informant that they were having hotel business and they wanted investments to the tune of Rs. 12 Lakhs for which they were willing to add the investors as their partners. The applicants insisted that the informant should invest in their business. Based on their representation, the informant Tushar Surve alongwith his friend Swapnil invested Rs. 12 Lakhs. Both of them paid Rs.6 Lakhs each. One document in the nature of Partnership deed

was executed. It was notarized. The gist of the FIR is that the applicants had made false representation. They never intended to give any profit or return the amount. The investment was misappropriated. On this basis, FIR is filed

5. On the previous occasion, learned counsel for the Applicants without prejudice to their contentions and rights had made a statement, on instructions, that the Applicants were willing to deposit amount of Rs.12 Lakhs in this Court. Considering that particular statement and strictly on the basis of that statement, the Applicants were protected by ad-interim order. That order was passed on 29.2.2024. Till today the Applicants have not deposited any amount.

6. Learned counsel for the Applicants submitted that the Applicants have not shown their bonafides and, therefore, he is not in a position to defend their inaction of not depositing the amount. On merits, he submitted that leniency be shown to the Applicant – Nita Alhat considering her limited role.

7. Learned APP relied on the averments in the FIR and the investigation carried out. He further submitted that 7/12 extract and the Shop Act License show the name of the Applicant – Nita Alhat. He, therefore, opposed grant of relief to the Applicant – Nita as well.

8. I have considered these submissions. From the FIR it is clear that the Applicants have misappropriated the amount given by the first informant, who was induced to part with his money. That amount is misappropriated. There is no acceptable explanation offered by the Applicants at this stage. Therefore, they cannot be protected under Section 438 of Cr.PC. However, I am inclined to grant protection to the Applicant – Nita. The FIR mentions that on a few occasions she had also told the informant to trust their family and her name appears in the record. However, the description in the FIR shows that the main representation was made by the other Applicants and, therefore, to that extent she can be protected under Section 438 of Cr.PC. However, no such protection can be afforded to the other

Applicants as the offence is clearly made out. The money is misappropriated. Their custodial interrogation is necessary.

9. Hence, the following order:

ORDER

- (i) In the event of her arrest in connection with C.R. No.114/2024 registered at Hadapsar police station, Pune, the Applicant – Nita Prakash Alhat in ABA/567/2024, be released on bail on her executing PR. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The Applications of the Applicant – Navin Alhat in ABA/565/2024 and of the Applicant – Prakash Alhat in ABA/567/2024, are rejected.
- (iii) Anticipatory Bail Applications are disposed of accordingly.

(SARANG V. KOTWAL, J.)