

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

Anticipatory Bail Application No. 1714 OF 2024

Shoaib Umar Khan

Age 34 years, Occ. Business,

R/at.: Room No.6, Irani Chawl,

Opp. Idris Compound, Goregaon

Mulund Link Road, Goregaon (E),

Mumbai - 400 063.

..Applicant

Vs.

The State of Maharashtra

(Through Dindoshi Police Station,

Mumbai)

..Respondent

Mr Prashant Pandey a/w Krishna Kadam for the Applicant.

Ms Pallavi Dabholkar, APP, for Respondent State.

Mr Sunny Waskar for the Intervenor.

PSI Umaji Kadam, Dindoshi Police Station is present.

Coram : R.N. Laddha, J.

Date : 27 June 2024

P.C. :

Heard Mr Prashant Pandey, the learned Counsel for the applicant; Ms Pallavi Dabholkar, the learned Additional Public Prosecutor for the State and Mr Sunny Waskar, the learned Counsel for the Intervenor.

2. This is an application for pre-arrest bail filed by the applicant, apprehending arrest in CR No.0398 of 2024, registered with Dindoshi Police Station, Mumbai, for the offences punishable under Sections 406, 420 and 506 of the Indian Penal

Code.

3. It is the case of the prosecution that the informant, who was a friend of the applicant, used to lend money to the applicant as needed. In 2019, the informant provided a varying amounts between Rs.50,000/- and 60,000/-, which the applicant repaid. In December 2022, the applicant requested financial assistance of Rs.4,50,000/-, and the complainant provided this amount under an Memorandum of Understanding (MOU). The applicant gave a security cheque for the borrowed sum. Later, in December 2022, the informant discovered that the applicant had received money from other individuals, some of whom had filed complaints against the applicants at Malad and Dindoshi Police Station. Moreover, certain individuals filed complaints under Section 138 of the Negotiable Instruments Act. When the complainant deposited the cheque in the bank, it was found to be damaged. After approaching the applicant, the applicant opened a new bank account, however, when the complainant re-deposited the cheque, it was dishonoured with the endorsement “account closed”. Subsequently, the complainant filed a complaint, leading to the registration of the present FIR.

4. Mr Prashant Pandey, the learned Counsel for the applicant, submits that although the informant has already filed a complaint under Section 138 of the Negotiable Instruments Act (NI Act),

there is no reference of the MOU in the complaint. According to the learned Counsel, there was a business transaction between the informant and the applicant, during which the applicant returned over Rs.8,00,000/- to the informant. It is submitted that this transaction is of a civil nature and has been wrongly portrayed as criminal. Additionally, it is submitted that if the cheque was damaged, the bank would not have accepted it. The present FIR is an act of revenge by the informant, who previously filed an FIR against the applicant's brother for offences punishable u/s 354, 324, 323, 506 r/w 34 of IPC. The learned Counsel submits that there is no need for custodial interrogation as nothing is to be recovered or discovered from the applicant.

5. Ms Pallavi Dabholkar, the learned APP, representing the State, submits that acknowledges that the investigation is nearly concluded, and has no objection to granting anticipatory bail, provided that the applicant complies with the condition of attending the concerned police station.

6. Mr Sunny Waskar, the learned Counsel for the Intervenor, asserts that the applicant has deceived several individuals in the vicinity. Furthermore, the applicant intentionally issued a cheque from an account that has already been closed. There is a possibility that the applicant may attempt to flee.

7. Upon perusing the record, it transpires that the investigation is almost completed. The transaction in question appears to be of a civil nature. The informant has already filed a complaint against the applicant u/s 138 of the NI Act. Nothing is to be recovered from the applicant, as all relevant documents are in possession of the investigating agency. Furthermore, the learned APP acknowledges that custodial interrogation of the applicant is not necessary. In the circumstances, the application is allowed in the following terms.

(i) In the event, the applicant is arrested in connection with CR No.398 of 2024, registered with Dindoshi Police Station, Mumbai, he be released on bail on furnishing a P.R. Bond of Rs.25,000/- with one or more sureties in the like amount;

(ii) The applicant shall report to the concerned police station on 1 July 2024, 2 July 2024 and 3 July 2024 between 11:00 a.m. to 2:00 p.m.

(iii) The applicant himself or through any other person shall not indulge in any activity that would tamper with the evidence or influence the witnesses.

8. The application stands disposed of accordingly.

[R.N. Laddha, J.]