

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1871 OF 2024**

Surendra Ganesh Kalbande	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

**AND
ANTICIPATORY BAIL APPLICATION NO. 1872 OF 2024**

Anuradha Appasaheb Phadtare	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. Advait Uday Shukla for applicants in both applications.

Mr. Tanveer Khan, APP for respondent-State in ABA/1871/24.

Mr. Mayur S. Sonavane, APP for respondent-State in ABA/1872/24.

Mr. Samir Shende, API, Bharati Vidyapeeth Police Station, District Pune City.

**CORAM : MANISH PITALE, J.
DATE : 24th JULY, 2024**

P.C. :

. Heard learned counsel for the applicants and the learned APPs for the respondent-State.

2. In these applications, the applicants are husband and wife and they have approached this Court as they apprehend arrest in connection with FIR No.0258 of 2023 dated 27.04.2023 registered at Police Station Bharati Vidyapeeth, District Pune for offences under Sections 419 and 420 read with Section 34 of the Indian Penal Code, 1860 and Sections 66C and 66D of the Information Technology (Amendment) Act, 2008.

3. The informant approached the police with a grievance that the applicants induced the informant to part with substantial sum of money on the basis of a promise that if he invested such amount and participated in business, he would earn huge amount of returns. It is the case of the informant that the applicants induced him by stating that in the meager salary being earned by way of employment, the informant would not be able to live a comfortable life and if the informant desired to earn huge amount of money, he ought to make the aforesaid investment, join the e-commerce business and enjoy the promised returns. It is the case of the informant that after having parted with substantial amount of money, totalling about ₹ 7 lakhs, no such business or return was forthcoming, due to which the informant was constrained to approach the police.

4. It is brought to the notice of this Court that during the pendency of anticipatory bail applications filed by the applicants, the Sessions Court had granted interim protection to the applicants by orders passed in March 2024. Subsequently, their applications were dismissed by the Sessions Court.

5. The learned counsel for the applicants has tendered a compilation of documents. The same is taken on record. He has referred to the said compilation to inform this Court that the wife of the informant in the subject FIR, is a witness in an earlier FIR registered on 22.11.2022 bearing FIR No.455 of 2022 at Police Station Warje-Maalwadi, District Pune City, concerning identical allegations made by another person. In the statement recorded during the course of investigation in November 2022, concerning the said FIR, the wife of the informant had made allegations, which are more or less identical to the statement leading to registration of the subject FIR. It

is brought to the notice of this Court that in the aforementioned earlier FIR registered in November 2022 at Police Station Warje-Maalwadi, the applicant in Anticipatory Bail Application No.1871 of 2024 i.e. Surendra Ganesh Kalbande was arrested. Subsequently, he was released on regular bail by an order dated 20.01.2023 passed by the Sessions Court. It is emphasized that in the said order, the Sessions Court observed that the chargesheet was already filed and since the case was based on documentary evidence, no purpose would be served by continuing the said applicant in custody. The applicant in Anticipatory Bail Application No.1872 of 2024 i.e. Anuradha Appasaheb Phadtare is the wife of the applicant Surendra Ganesh Kalbande. It is submitted that both the applicants are ready to co-operate with the investigation and therefore, this Court may consider allowing the present applications.

6. On the other hand, the learned APPs appearing for the respondent-State in these applications have opposed the prayer made on behalf of the applicants. It is submitted that in the present FIR, a further allegation is made about the *modus operandi* adopted by the applicants for ensuring transfer of huge amount of money from the account of the informant, in connivance with co-accused person Harshal Gaikwad. It is emphasized that the co-accused persons Pradnya Dattatray Thombare and Harshal Gaikwad are still absconding. It is submitted that in the light of the specific allegations made against the applicants, their custody is necessary for a comprehensive investigation into the matter.

7. This Court has considered the rival submissions in the backdrop of the documents filed alongwith the applications, as also the compilation of documents tendered by the learned counsel for the applicants. The aforesaid

material shows that the applicant Surendra Ganesh Kalbande was arrested in connection with the earlier FIR No.455 of 2022 dated 22.11.2022, registered at Police Station Warje-Maalwadi. The allegations made against the applicants in the said FIR are by and large similar to the allegations made in the subject FIR. In the said case, chargesheet is already filed and the Sessions Court has correctly observed that the case involves documentary evidence. The applicant Surendra Ganesh Kalbande remained in custody for about three months and thereafter, he was released on regular bail by the Sessions Court by the said order dated 20.01.2023.

8. It is after the said applicant was released in January 2023 that the subject FIR came to be registered on 27.04.2023. This Court has perused the statement of the informant leading to registration of subject FIR. The allegations made by the informant in this case can be said to be identical/similar to the allegations on the basis of which the earlier FIR was registered in November 2022. As regards the transfer of amount by an OTP being generated on the mobile of the informant, suffice it to say that the said allegation is in the backdrop of the alleged inducement given by the applicants to the informant regarding participating in e-commerce business to make huge amount of money. The thrust of the allegations appear to be identical to the earlier FIR registered in November 2022.

9. Though it cannot be doubted that the statement of the informant leading to registration of subject FIR, does allege specific role of the applicants concerning the offences registered against them, it is relevant that with regard to the similar/identical allegations made by the informant, which led to registration of earlier FIR in November 2022, one of the applicants i.e. Surendra Ganesh Kalbande remained in custody for about

three months and thereupon, he was granted regular bail by the Sessions Court in January 2023. The applicant in the accompanying application is the wife of Surendra Ganesh Kalbande.

10. The applicants before this Court have undertaken to co-operate with the investigation and considering the aforementioned background, leading to registration of subject FIR, wherein one of the applicants has already undergone custody for about three months and in the present case also, the evidence would necessarily be documentary in nature, this Court is inclined to show indulgence to the applicants.

11. It is not even the case of the informant that cash amounts were taken by the applicants. The transfer of amounts appears to be online, which can certainly be traced by way of further investigation with co-operation of the applicants, who undertake to place before the investigating officer all the relevant documents concerning the said transaction.

12. In view of the above, the applications are allowed in the following terms:

- (i) In the event the applicants are arrested in connection with FIR No.0258 of 2023 dated 27.04.2023 registered at Police Station Bharati Vidyapeeth, District Pune, they shall be released on bail on furnishing PR Bond of ₹ 50,000/- each with one or two sureties in the like amount to the satisfaction of the trial Court;
- (ii) the applicants shall remain present before the Investigating Officer on 26.07.2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when the Investigating Officer calls upon them to remain present;
- (iii) the applicants shall not tamper with the evidence of the prosecution in

any manner. They shall not influence the informant, witnesses and other persons concerned with the case;

- (iv) the applicants shall co-operate with the investigation and also in the proceedings before the trial court. They shall place before the investigating officer all the documents in their custody, as may be demanded by the investigating officer.

13. In the event, the applicants violate any of the conditions specified in this order, it shall be liable to be cancelled.

14. It is also clarified that the observations made in this order are limited to the disposal of the present anticipatory bail applications and the trial court shall proceed further in the matter without being influenced by the observations made hereinabove.

15. The applications stand disposed of.

(MANISH PITALE, J)

Priya Kambli