

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

ANTICIPATORY BAIL APPLICATION NO. 2123 OF 2024

Amandeep Singh Sran

...Applicant

Versus

The State of Maharashtra

...Respondent

- Mr. Varinder K. Sharma i/b R.K. Uttarwar, for Applicant.
- Mr. Tanveer Khan, APP for Respondent.
- Mr. Kishor Kolhe, API, EOW, Nashik City.

CORAM : MANISH PITALE, J.

DATE : 28th August, 2024.

P. C. :

1. Heard Mr. Sharma, learned counsel appearing for the applicant and Mr. Khan, learned APP for the State.

2. This anticipatory bail application is filed in peculiar circumstances. The applicant is seeking anticipatory bail in the context of First Information Report No.445 of 2016, registered as far back as on 05.10.2016 at Police Station Upnagar, District Nashik, for offences under Sections 406, 409, 420, 120-B read with Section 34 of the Indian Penal Code (IPC).

3. The applicant is one of the accused persons. The learned APP informs this Court that a co-accused person has expired, while the other co-accused persons are allegedly absconding.

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4. In the present case, the allegation against the applicant and the co-accused persons is to the effect that they took substantial amounts for investments promising handsome returns and eventually the returns never materialized. It is brought to the notice of this Court that the applicant is facing prosecution in various parts of the Country for similar / identical allegations and in some cases offence under Section 409 of the IPC has been registered, while in other cases the aforesaid offence has not been registered. Be that as it may, it is significant to note that the applicant admittedly has remained incarcerated from 28.08.2015. As a consequence, he has remained behind bars for 9 years. Except offence under Section 409 of the IPC, in the present case, the applicant has already undergone incarceration for a period more than the maximum sentence that could be imposed upon him, even if he found guilty.

5. The learned counsel for the applicant invited attention of this Court to various documents filed along with the application, including orders passed by various Court, including High Courts and Sessions Courts, as also an order dated 28.08.2023, passed by the Supreme Court in SLP (Criminal) No.4380 of 2019, wherein the Supreme Court took into the consideration the fact that the applicant has remained behind bars since 2015 and thereupon directed that the applicant shall be released forthwith from custody.

6. It is a different matter that despite the aforesaid order, the applicant has continued to remain lodged in a jail in Chhattisgarh, because he is yet to be granted regular bail in one of the cases pending in the said State.

7. The learned counsel for the applicant has further invited attention of this Court to orders passed by the Securities Appellate Tribunal, Mumbai, referring to a direction to the applicant and others to deposit amount of ₹ 50 Lakhs and also original title deeds of properties. Attention of this Court is also invited to a list of properties, along with their valuation, that have been attached by the Security and Exchange Board of India (SEBI) in appropriate proceedings. A specific statement is made in the application that while the liabilities in terms of the allegations made against the applicant and other co-accused persons is to the extent of about ₹ 700 Crores, the properties and assets attached by the SEBI are worth about ₹ 1200 Crores. It is submitted that this aspect may also be taken into consideration by this Court, while disposing of the present application. It is submitted that the applicant is lodged in jail and yet he is ready to cooperate with the investigation.

8. The learned APP on the other hand has taken specific instructions in the matter. He submits that the Investigating Officer has made efforts to reach out to the Competent Courts and Jail Authorities in the State of Chhattisgarh for an opportunity to interrogate the applicant, but so far the

Investigating Officer has been able to interrogate the applicant only on two occasions and that too for a limited period of time. It is submitted that on one further occasion an opportunity was granted by the concerned Sessions Court at Chhattisgarh, to interrogate the applicant, but the Investigating Officer could not reach the concerned jail with all necessary documents to undertake the exercise of interrogating the applicant.

9. It is submitted that the Investigating Officer apprehends that if the applicant is granted relief and eventually he is also granted regular bail by the concerned Court at Chhattisgarh, the applicant may abscond and this could be to the detriment of the investigation in the present case. It is emphasized that the present FIR concerns a number of investors whose amounts were misappropriated, to the tune of more than amount ₹ 3 Crores. Looking to the seriousness of the offences, it is submitted that this Court may not grant relief in the present application.

10. Having considered the rival submissions and after having perused the material on record, this Court is inclined to allow the present application for the following reason :

- (i) Admittedly the applicant has remained incarcerated from 28.08.2015. Hence, he has suffered incarceration for exactly 9 years today. The said period of incarceration is

more than the maximum sentence of imprisonment that could be imposed upon the applicant even if he is found guilty in the present case, except for offence under Section 409 of the IPC.

- (ii) The applicant is facing such prosecution for various offences, including offence under Section 409 of the IPC and the Supreme Court being aware of the said fact passed order dated 28.08.2023 in SLP (Criminal) No.4380 of 2019, directing the applicant to be released forthwith, specifically on the ground of his long incarceration since 2015.
- (iii) The applicant has made a specific statement in the application that while the liabilities in the present case, even if the allegations against the applicant and other co-accused persona are proved, is to the extent of about ₹ 700 Crores, while the SEBI has already attached properties and assets worth ₹1200 Crores. There are documents placed on record along with this application showing the description of such properties and valuation thereof, as in the year 2017. The valuation may have increased over a period of 7 years.

- (iv) The judgments and orders of various Courts, including High Courts, placed on record with the application do indicate that the applicant has been granted relief of anticipatory bail/regular bail from various Courts in India. One of the factors taken into consideration by the Courts is the long incarceration that the applicant has already suffered. This is also a relevant factor while considering the present application.
- (v) The applicant has undertaken to cooperate with the investigation.
- (vi) The apprehension expressed by the learned APP can be addressed by imposing appropriate conditions on the applicant and considering the attachment of properties, this Court is of the opinion that the apprehension of the aggrieved persons / investors can be said to be appropriately addressed.

11. For the aforesaid reasons, the application is allowed in the following terms :

- (A) In the event the applicant is arrested in connection with FIR No.0445 of 2016, registered as far back as on 05.10.2016 at Police Station Upnagar, District Nashik, for

offences under Sections 406, 409, 420, 120-B read with Section 34 of the Indian Penal Code, he shall be released on bail on furnishing P.R. Bonds of ₹ 50,000/- and one or two sureties in the like amount to the satisfaction of the Trial Court.

- (B) The applicant shall cooperate with the investigation, including remaining present before the Investigating Officer, as and when he is released from custody.
- (C) The Investigating Officer is at liberty to take necessary steps to approach the concerned Authorities in the State of Chhattisgarh to approach and interrogate the applicant, if he continues to remain in custody.
- (D) The applicant shall provide all details about the aforementioned properties, their valuation and proceedings concerning such properties, so that the Investigating Officer has entire material in his possession, as to the manner in which the interest of the aggrieved persons and investors can be protected. In the alternative the Investigating Officer is at liberty to approach SEBI to procure the details.
- (E) The applicant shall not tamper with the evidence in any

manner. He shall not influence the informant, witnesses or any other persons concerned with the case.

(F) The applicant shall cooperate with the proceedings in the Trial Court and he shall remain present before the Trial Court on each and every date, except when specifically exempted by the Trial Court.

(G) The applicant shall surrender his passport, if any, with the Trial Court.

12. Needless to say, violation of any of the aforesaid conditions may lead to cancellation of the present order.

13. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicant in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

14. The application is disposed of.

(MANISH PITALE, J.)