

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

Anticipatory Bail Application No. 2153 of 2024

Shubham Shreenarayn Jaiswal
Age 28 years, Add: Flat No.601,
B Wing, Vinay Hermitage CHS Ltd.
Opp. MIG Colony, Mira Road East,
Thane, Maharashtra.

...Applicant

Vs.

The State of Maharashtra
(Through Kandivali Police Station)

...Respondent

Ms Apurva Gupte a/w. Mr Mahesh Patil a/w. Mr Tarun Sharma
a/w. Mr Sarika Molla, for the applicant.

Mr MG Patil, APP, for the respondent/ State.

PSI Bharat Rane, Kandivali Police Station, Mumbai, is present.

**Coram: R. N. Laddha, J.
Date: 10 September 2024**

P.C.:

This is an application for pre-arrest bail filed by the applicant, who apprehends arrest in CR No.548 of 2024, registered at Kandivali Police Station, Mumbai. The applicant is accused of committing offences punishable under Sections 406 and 420 of the Indian Penal Code.

2. The prosecution alleges that the applicant, who owns Career Academy, conducted coaching classes for competitive examination at KES College in Kandivali. In June 2023, the informant's daughter enrolled in the NDA course, paying

Rs.40,000/- in fees. Initially, the classes were regular, but they soon became irregular and eventually ceased. Upon inquiry, the informant found that the applicant had closed the operations. It is alleged that the applicant persuaded the informant and other parents to enrol their children in the coaching classes and misappropriated the fees without providing any services.

3. Ms Apurva Gupte, the learned Counsel appearing on behalf of the applicant, asserts the applicant's innocence. She argues that the college's ongoing cultural activities caused delays in the lectures for the informant's course. When the lectures resumed, the applicant barely attended them. Ms Gupte contends that the allegations against the applicant are *ex facie* spurious and without a *bona fide* foundation. The informant in her quest to recover sums has unwarrantedly embroiled the applicant. The learned Counsel points out that the FIR was lodged by the informant a month after the exam result were declared, primarily to seek a refund for the failed attempt. She emphasises that the informant, rather than seeking redress in a civil forum has sought to evoke the police machinery to exert undue pressure. The informant's recourse to criminal proceedings is a *mala fide* attempt to convert a civil dispute into a criminal one. The learned Counsel further submits that the applicant, a person of reputable standard and impeccable antecedents, has never been implicated in any criminal proceedings before the instant case. She reiterates the applicant's

readiness and willingness to cooperate with the investigating agency and abide by any terms imposed by the Court.

4. Mr MG Patil, the learned Additional Public Prosecutor representing the respondent/ State, submits that the offence is severe and warrants a comprehensive investigation. If the applicant is released on bail, he may tamper with the evidence or influence the witnesses.

5. Upon perusing the records, it appears that the informant's grievance in the FIR relates to the applicant's failure to conduct classes regularly and to refund the fees. At first glance, apart from the allegations in the FIR, there is no material suggesting the applicant induced the informant to enrol her daughter in the coaching classes. After enrolment, the informant's daughter attended some lectures, but due to ongoing college activities there was a delay in resuming regular classes. The allegations indicate that the classes began in June 2023, with delays and termination occurring shortly thereafter. However, the incident was reported only in June 2024, with no explanation for the delay. The nature of the offence appears to be civil, based on documentary evidence. Moreover, the learned APP acknowledges that the investigation is on the verge of completion. Suitable conditions can be imposed to address the prosecution's concerns about evidence tampering and witness influence. The Hon'ble Supreme Court has consistently ruled in numerous cases that anticipatory

bail should be granted to protect individuals from unwarranted arrests, particularly in cases where the allegations involve civil disputes camouflaged as criminal complaints. In the circumstances, this Court is inclined to exercise its discretion in favour of the applicant. Hence, the following order:

ORDER

(i) In the event of the applicant's arrest in connection with CR No.548 of 2024, registered at Kandivali Police Station, Mumbai, he shall be released on bail upon executing a PR Bond of Rs.25,000/- and furnishing one or more sureties in the like amount.

(ii) The applicant shall attend the concerned Police Station as and when required.

(iii) The applicant, himself or through any other person, shall not tamper with the evidence or influence the witnesses.

6. The application stands disposed of accordingly.

(R. N. Laddha, J.)