

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

Anticipatory Bail Application No.2207 of 2024

Mahesh Sahebrao Yeole
Age 42, Occu.-Service
Residing at 790/2, Main Road,
Vitthal Mandir, Kanalade,
Tal./Dist - Jalgaon
Having Office at - H.M. Rahul Nagar,
Taluka - Shahapur, Dist - Thane ... Applicant

v/s.

State of Maharashtra
through Senior Police Inspector
Kinhavali Police Station, Thane Rural ... Respondent

Mr Akshay R Kapadia, for the Applicant.
Mr Amit A Palkar, APP, for Respondent State.

**Coram: R.N. Laddha, J.
Date: 16 October 2024**

P.C.:

The applicant has filed the present application seeking anticipatory bail in connection with CR No.297 of 2023, registered at Kinhavali Police Station, Thane, for offences punishable under Sections 409, 420, 464 and 468 read with 34 of the Indian Penal Code.

2. The prosecution alleges that between 19 October 2022 and 31 March 2023, the applicant, in collusion with the co-accused, misappropriated 6466.42 quintals and 16166 gunny bags of paddy valued at Rs.2,73,16,843/-. This fraudulent activity was executed by acquiring the paddy from the Maharashtra State Tribal Development Corporation using forged and counterfeit hundis in the names of the farmers.

3. Mr Akshay Kapadia, the learned Counsel appearing on behalf of the applicant, argues that at the relevant time, the applicant was not posted and in charge of the godown. He only assumed the responsibility of marketing inspector of the concerned godown from 10 April 2023 to 25 September 2023, during which he promptly reported the deficiency of the grains. The applicant had no involvement in the crime, and the main perpetrator has already been suspended. The learned Counsel asserts the applicant's innocence, emphasising that he has no criminal antecedents and has been falsely implicated in the crime. The applicant is ready and willing to comply with any conditions the Court may impose.

4. Mr Amit Palkar, the learned Additional Public Prosecutor representing the respondent/ State, contends that the applicant, who assumed charge of the godown as a marketing inspector in

2022, was responsible for verifying the hundis. However, with the intent to defraud the State and the Corporation, the applicant, in collusion with the co-accused, forged the hundis and misappropriated the paddy. Emphasising the gravity of the offence, the learned APP, asserts that the crime has resulted in significant financial loss to the public exchequer. Furthermore, the applicant has not cooperated with the ongoing investigation, necessitating his custody to identify all individuals involved in the crime.

5. This Court has given anxious consideration to the rival submissions canvassed across the Bar and perused the material placed on record.

6. A cursory reading of the FIR indicates that the allegations against the applicant involve the misappropriation of paddy valued at Rs.2,73,16,843/-, facilitated through the use of forged and fraudulent hundis. At the time of the incident, the applicant was responsible for overseeing the operations at godown, which included ensuring proper checks and verifying the authenticity of the hundis before authorising the release of any grain. However, it appears that the applicant accepted these counterfeit hundis as genuine and acted on them, leading to the release of the grain by the Corporation. Although the applicant

asserts to have reported the misappropriation, such reports only surfaced in 2023, shortly before the registration of the FIR. Based on the material available on record, there is *prima facie* case suggesting the applicant's involvement in the fraudulent activity. The act of forging documents to unlawfully obtain food grains has far-reaching and severe consequences and loss to the public exchequer.

7. It is important to note that the FIR was registered on 7 December 2023. However, the applicant did not file an application for anticipatory bail before the Sessions Court until 29 February 2024. The Sessions Court subsequently rejected the applicant's request on 5 July 2024, and the present bail application was only filed on 2 August 2024. This indicates a significant delay in seeking pre-arrest bail, both in the Sessions Court and this Court. During this period, the applicant has not made himself available for the investigation. Addressing crimes of this nature requires a high degree of seriousness and diligence, particularly when the accused has gone into hiding to evade investigation. Furthermore, granting anticipatory bail in such cases could seriously impede the effectiveness of the ongoing investigation.

8. It is a settled position in law that granting anticipatory bail

is an extraordinary power. While regular bail is generally considered the norm, the same principle does not apply to anticipatory bail. Considering each case's specific circumstances, the Court must exercise careful and prudent discretion when deciding whether to grant anticipatory bail. A straitjacket formula cannot be applied. Caution is necessary, as granting protection in serious cases could potentially hinder investigation or lead to miscarriage of justice by allowing tampering with evidence. In this context, a profitable reference may be made to the decision of the Hon'ble Supreme Court in *Srikant Upadhyay v. State of Bihar*¹.

9. Given the gravity of the offence and the ongoing investigation, the custodial interrogation of the applicant would be necessary. In these circumstances, this Court is not inclined to exercise its discretion in favour of the applicant. As a result, the present application stands rejected.

[R.N. Laddha, J.]

¹. 2024 SCC OnLine SC 282.