

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

ANTICIPATORY BAIL APPLICATION NO. 2231 OF 2024

Sandeep Chautharam Parihar	...	Applicant
Versus		
The State of Maharashtra	...	Respondent

Ms.Anima Mishra a/w Subhash Hulyalkar for the Applicant.
Ms.Rutuja A. Ambekar (through V.C.), APP for Respondent-State.
Ms.Chhaya Gujar, API, Bhosari Police Station, Pimpri-Chinchwad.

**CORAM: MANISH PITALE, J.
DATE : 27th AUGUST 2024**

P.C. :

1. Heard learned counsel for the applicant and learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No. 0358 of 2024 dated 1st June 2024 registered at Bhosari Police Station, Pimpri-Chinchwad, for offences registered under Sections 406 and 420 of the Indian Penal Code, 1860 (IPC).

3. The informant in the present case is the Chief Manager of the Bank that had advanced loan to the applicant. It is the case of the informant that while plant and machinery were hypothecated by the applicant by way of security, when the applicant defaulted in repayment of loan and appropriate steps were sought to be taken in respect of the said plant and machinery, it was found that

the applicant had in a clandestine manner, disposed of the said machinery, thereby committed the aforesaid offences.

4. The learned counsel for the applicant submits that in the present case, a simple case of default in repayment of loan amount is being given the colour of criminality. It is submitted that there were genuine reasons for the applicant being unable to repay the loan and since the applicant is ready to cooperate with the investigation, this Court may allow the present application.

5. On the other hand, the learned APP relied upon investigation papers, as also the statement of the informant. It is brought to the notice of this Court that despite notice issued under Section 41A(1) of the Code of Criminal Procedure, 1860 (Cr.P.C.), the applicant refuses to appear before the investigating officer and he did not cooperate at all.

6. This Court has considered the material on record and this Court is inclined to grant interim relief for the following reasons :

(a) The statement of the informant, leading to registration of the FIR, itself shows that the applicant had applied for restructuring of the loan, in the light of the covid-19 pandemic and the loss of business. Therefore, it could be said that covid-19 pandemic was a factor that led to the default on the part of the applicant.

(b) *Prima facie*, it appears that the applicant may not be

attributed intention to induce the bank into giving him loan, so as to eventually cheat the bank by defaulting in repayment of loan. Therefore, the essential ingredients of offence under Section 420 of the IPC *prima facie* may not be made out.

- (c) That leaves only the offence under Section 406 of the IPC of the criminal breach of trust, for which the maximum punishment is imprisonment for three years.
- (d) The applicant indeed appears not have responded to the notice issued under Section 41A(1) of the Cr.P.C. But, it could be because of an apprehension that he may be arrested by the Police. An undertaking is given on behalf of the applicant before the Court today that he will remain present before the Investigating Officer and cooperate with the investigation.

7. For the reasons stated above, there shall be interim order in the following terms:

- (a) Till the next date, in the event the applicant is arrested in connection with FIR No. 0358 of 2024 dated 1st June 2024 registered at Bhosari Police Station, Pimpri-Chinchwad, he shall be released on bail on furnishing PR Bond of Rs.50,000/- and one or two sureties in the like amount.
- (b) The applicant shall remain present before the Investigating

Officer on 29th and 30th August 2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when called by the Investigating Officer.

- (c) The applicant shall cooperate with the investigation and shall produce all documents in his possessions, as may be demanded by the Investigating Officer.
- (d) The applicant shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses and other persons concerned with the case.

8. In the event, the applicant violates any of the aforesaid conditions, the order passed today would be recalled.

9. List this application for further consideration on 3rd October 2024, to be included in the supplementary list.

10. The learned APP shall take specific instructions to report this Court, as to whether the applicant has indeed cooperated with the investigation, in the light of the interim order granted in his favour.

MANISH PITALE, J.