

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

Anticipatory Bail Application No.2286 of 2024

Rupesh Vasant Patil

Age 38 years, Occ. Service,

R/o. Gunj, Post Khupri, Tal. Wada,

Dist. Palghar.

At present R/at-B-24, Sagar Ninad CHS

Ltd., Chendni, Koliwada, Thane East

... Applicant

versus

1. The State of Maharashtra

2. Senior Police Inspector

Agripada Police Station, Mumbai

Vide C.R. No.381 of 2024

... Respondents

Mr Priyal G Sardar, for the applicant.

Ms Supriya Kak, APP, for the respondent / State.

Coram: R.N. Laddha, J.

Date: 24 October 2024

P.C.:

By this application, the applicant seeks pre-arrest bail in connection with CR No.381 of 2024, registered at Agripada Police Station, Mumbai, for offences punishable under Sections 420, 465, 467 and 471 read with 34 of the Indian Penal Code.

2. The core accusation in the indictment is that the

applicant, along with the co-accused, orchestrated a fraudulent fireman recruitment scheme in the name of the Municipal Corporation of Greater Mumbai, thus deceiving innocent candidates and unlawfully profiting from it.

3. Mr Priyal Sarda, the learned Counsel appearing on behalf of the applicant, asserts the applicant's innocence and contends that he has been falsely implicated in the present crime. An inquiry is already being conducted against the applicant, and the Fire Department has issued a show cause notice. The learned Counsel further contends that the allegations in the FIR are vague and lack specific details. Since the alleged forged recruitment letters are already with the investigating agency, the learned Counsel argues that the applicant's custody is unwarranted.

4. Ms Supriya Kak, the learned Additional Public Prosecutor representing the respondent/ State, emphasising the seriousness of the offence, contends that in July 2008, the applicant joined the Fire Department as a clerk in the recruitment section and was promoted to head clerk in December 2022. The applicant exploited his position to receive significant illegal gratification through the fraudulent recruitment scheme. The learned APP also submits that other victims have also raised similar

complaints, necessitating the applicant's custody to ascertain the persons involved in the crime.

5. This Court has given anxious consideration to the rival submissions canvassed across the Bar and perused the records.

6. Granting anticipatory bail demands a thoughtful and judicious exercise of discretion by the Court, tailored to the unique facts of each case. When invoking this power, the Court must tread with caution, acknowledging that granting protection in serious cases may inadvertently compromise justice or impede the investigation by enabling evidence tampering or destruction. A profitable reference in this regard can be made to the decision of the Hon'ble Supreme Court in *Srikant Upadhyay v. State of Bihar*¹.

7. Furthermore, the principles to be considered for granting anticipatory bail are settled. The Court, firstly, must consider the *prima facie* case against the accused; secondly, the nature of the offence; and thirdly, the severity of its punishment. While bail can be denied on the requirement of custodial interrogation, its non-requirement cannot by itself be the sole ground to grant pre-arrest bail. These aspects are highlighted in

¹ 2024 SCC OnLine SC 282.

Sumitha Pradeep v. Arun Kumar C.K²

8. In the present case, the allegations against the applicant and the co-accused involve orchestrating a fraudulent recruitment scheme for firemen within the Municipal Corporation of Greater Mumbai and deriving profits unlawfully. It is undisputed that at the relevant time, the applicant was working in the recruitment section of the Fire Department. *Prima facie*, the records indicate that the applicant had knowledge of the recruitment section's functioning and operations. By allegedly floating this fraudulent scheme, the applicant unjustly enriched himself with Rs.23 lakhs from innocent candidates. Notably, there are other victims in similar situations. The material on record *prima facie* suggests the applicant's involvement in the crime. A thorough investigation is necessary to uncover the circumstances surrounding the scheme, including the involvement of other individuals.

9. In the totality of the circumstances, this Court is not inclined to accede to the submission on behalf of the applicant. In cases of such nature, custodial interrogation is crucial to uncovering the fraud in all its facets. Considering that the investigation is ongoing and there are other victims in similar situations, the applicant's release on pre-arrest bail would

² 2022 SCC OnLine SC 1529.

jeopardise the course of an effective investigation. Therefore, this Court is not inclined to exercise its discretion in favour of the applicant. As a result, the application stands rejected.

(R.N. Laddha, J.)