

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2297 OF 2024**

Somnath Kacharu Shinde ... Applicant
versus
The State of Maharashtra ... Respondent

Mr. Aniket Vagal with Mr. Kunal N. Pednekar, Mr. Savvy Kolhekar,
for Applicant.

Mrs. Mahalaxmi Ganapathy, APP for State.

CORAM: N.J.JAMADAR, J.

DATE : 21 AUGUST 2024

P.C.

1. Heard the learned Counsel for the parties.
2. This is an application for pre-arrest bail in C.R.No.285 of 2023 registered with Yeola City Police Station for the offences punishable under Sections 386, 388, 364A, 420, 166, 167, 506, read with Section 34 of the Indian Penal Code and Section 3 read with Section 25 of the Arms Act, 1959.
3. Pooja Mahesh Vanjari, first informant, lodged a report with the allegations that her brother Prasad Anil Bhadange was in financial constraints. Co-accused Amol Nade represented to Prasad Bhadange that the latter was not required to approach the financial institutions for financial assistance, and took Prasad

Bhadange to Sachin B. Patil, the absconding accused. Sachin Patil agreed to lend money to Prasad Bhadange on the condition that he should execute a document before the Notary. Prasad Bhadange called his mother, first informant and another sister to execute such a document. The first informant alleged that on 10 March 2023, the absconding accused Sachin Patil, the applicant and co-accused Papu Sonavane and Amol Nade made them to board a Innova Car. In the car, the applicant allegedly pointed a revolver on the head of Prasad and forced them to execute the document by giving threat of shooting Prasad. They were thus made to execute a Special Power of Attorney in favour of the applicant under duress.

4. Subsequently, on the strength of the said Power of Attorney, the agricultural land belonging to the first informant's family, was sold to a third party. A sum of Rs.10,95,000/- was credited to the account of Prasad Bhadange over a period of time by various third parties and, subsequently, co-accused recovered the amount to the tune of Rs.6 Lakhs from Prasad Bhadange by way of interest, and, thereby, committed the offence of extortion. Prasad Bhadange was

also threatened out of his life. After realizing that the applicant and co-accused had defrauded the first informant and her family members by executing false and fabricated instruments, the first informant lodged the report.

5. Mr. Vagal, learned Counsel for the Applicant, submitted that there is an inordinate delay in lodging the FIR. The incident had allegedly occurred on 10 March 2023. However, the FIR came to be lodged in the month of August 2023. There is no plausible explanation for the delay. Secondly, this Court had granted pre-arrest bail to few of the co-accused and regular bail to Rahul Sonavane and Amol Nade. The applicant is also similarly circumstanced. Therefore, the applicant deserves pre-arrest bail.

6. Learned APP vehemently opposed the prayer of pre-arrest bail. It was submitted that the applicant was the principal character in the offence of kidnapping for ransom, extortion and criminal intimidation. It was the applicant who had pointed a gun at the head of Prasad Bhadange. The Power of Attorney was also got executed in favour of the applicant. Thus, the applicant cannot claim parity with the co-accused who have been released on bail.

7. Learned APP further submitted that the applicant has been absconding since the date of registration of the FIR. Charge sheet has been lodged against the co-accused showing the applicant as an absconding accused. On this count also, the applicant does not deserve any discretionary relief.

8. I have given careful consideration to the rival submissions canvassed across the bar. Indeed, this Court had granted pre-arrest bail to few of the co-accused and also released Rahul Sonavane and Amol Nade, on regular bail. However, the claim for parity with those co-accused does not appear sustainable.

9. The co-accused who have been released on pre-arrest bail or on regular bail were either the public officials who had registered the instrument or the persons who had allegedly collected money from Prasad Bhadange, post registration of the allegedly forged instrument.

10. The role attributed to the applicant, however, appears to be materially distinct and grave one. The applicant had allegedly pointed a gun on the head of Prasad Bhadange. The special Power of Attorney dated 10 March 2023 was executed in favour of the

applicant. Prima facie, the allegations in the FIR find support in the statements of the witnesses recorded under Section 164 of the Code, 1973.

11. Mr. Vagal, learned Counsel for the Applicant, attempted to wriggle out of the situation by submitting that the applicant had merely facilitated the transaction between the informant party and the purchaser. The applicant was not the beneficiary of the alleged fraud. Mr. Vagal, however, did not dispute that a sum of Rs.95,000/- was credited from the account of the applicant to the account of Prasad Bhadange. This factor militates against the claim of the applicant. If the applicant was the facilitator or an estate agent, there was no occasion for the applicant to pay a sum of Rs.95,000/- to the first informant. The fact that the special Power of Attorney was executed by the first informant, her siblings and mother, prima facie, establishes the nexus between the alleged act of giving threat on the point of revolver and the execution of the said instrument.

12. Moreover, the material on record indicates that the applicant had made himself scarce. It is trite, an accused who keeps himself

away from the investigating agency and does not cooperate with the investigation, does not deserve the relief of pre-arrest bail. I am, therefore, not inclined to entertain the prayer for pre-arrest bail.

13. Hence the following order :

ORDER

(i) The Application stands rejected.

(ii) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for pre-arrest bail only.

Application disposed.

(N.J.JAMADAR, J.)