

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

Anticipatory Bail Application No. 2371 of 2024

Karthik Shetty S/o Babu,
Age: 37 years, Occ: Business,
R/at: 329, Bagee Residency,
Chhathrad Street Aaktraya,
Behind Rama Temple,
Ramanagara,
Karnataka - 562 159

... Applicant

Versus

1. The State of Maharashtra
(at the instance of Vile Parle Police
Station, vide FIR bearing CR No.
575/2024)

2. Ravi Kalmeshwar Pujari,
R/o. A 501, Plot No.24,
Gulmohar Cross Road,
12 Juhu Scheme,
Vile Parle - 49

... Respondents

Mr Raool Sawant, i/b. Mr Dhanraj Lodha, for the applicant.
Mr Yogesh Y Dabke, APP, for the respondent/ State.
Mr Samir Vaidya, a/w. Ms Vanita Shinde and Ms Bhakti
Rewate, for respondent No.2/original complainant.
PSI SM Mulani, Vile Parle Police Station, Mumbai, is present.

**Coram: R.N. Laddha, J.
Date: 21 November 2024.**

P.C.:

By this application, the applicant seeks pre-arrest bail in connection with CR No.575 of 2024, registered at Vile Parle Police Station, Mumbai, for the offences punishable under Sections 406 and 420 of the Indian Penal Code.

2. The prosecution asserts that the applicant is the owner of the Idly Guru franchise. In November 2023, following discussions with the applicant, the informant agreed to open a restaurant franchise for Rs.23,60,000/-. Initially, on 29 November 2023, the informant transferred Rs.10,00,000/- to the applicant's account. After the franchise agreement was executed on 15 December 2023, the informant transferred the remaining amount of Rs.13,60,000/- on 22 December 2023. According to the franchise agreement, the applicant was responsible for completing the interior and civil work of the outlet and handing it over to the informant within 60 days. It is alleged that despite receiving the franchise fee, the applicant failed to deliver the premises and did not return the accepted amount, thereby cheating the informant.

3. Mr Raool Sawant, the learned Counsel appearing on behalf of the applicant, contends that the dispute stems from a contractual matter and is, therefore, civil in nature. The

applicant had begun construction at the outlet site, but due to his arrest for another crime in Bengaluru and his father's ill health, he was unable to complete the work on time. To demonstrate his good faith, the applicant issued a cheque for Rs.23,60,000/- to the informant. The learned Counsel asserts that the applicant had no intention of deceiving the informant from the outset. Mr Sawant, asserting the applicant's innocence, further submits that he has been falsely implicated in the present crime.

4. Mr Yogesh Dabke, the learned Additional Public Prosecutor representing respondent/State and Mr Samir Vaidya, for respondent No.2/the informant, jointly assert that the offence is serious and that the applicant intended to deceive the informant from the outset. They submit that the applicant received the funds in his bank account, and the cheque was dishonoured. The learned APP emphasises that the applicant has a criminal history of similar criminal activities. He further argues that the applicant's custody is necessary as the investigation is in progress, and the transferred funds have yet to be recovered.

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

6. The applicant stands accused of accepting Rs.23,60,000/- as the franchise fee for setting up an outlet of 'Idly Guru' for the informant in Vile Parle. However, the applicant failed to deliver the outlet or return the funds. It is undisputed that the franchise fee was accepted through banking channels. The franchise agreement indicates that the applicant was required to complete the necessary civil work and hand over the premises within 60 days, a period that expired in February 2024, before the applicant's arrest in Bengaluru. Despite knowing his bank account was frozen, the applicant issued a cheque to refund the amount, which was dishonoured upon presentation. The applicant appears to have defaulted on his obligations. Furthermore, the applicant has criminal antecedents of a similar nature. The investigation is at a nascent stage. Given these circumstances, 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.)