

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

Anticipatory Bail Application No. 2493 OF 2024

Karthik Purandar Shetty
Aged 30 years, Occ. Social Service,
R/at. 40/2(2), Sankarshana House,
Kunja Gudde, Udupi, Ambalapadi,
Udupi, Karnataka – 567 103.

... Applicant

Vs.

The State of Maharashtra
Through Bazar Peth Police Station, Kalyan.

... Respondent

Ms Aruna Pai, for the Applicant.

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

PSI Ajinkya More, Bazar Peth Police Station, Kalyan, present.

Coram: R.N. Laddha, J.

Date: 19 September 2024

P.C.:

The applicant apprehends arrest in connection with CR No.360 of 2023, registered at Bazar Peth Police Station, Kalyan, for offences punishable under Sections 420 and 406 read with 34 of the Indian Penal Code, and has approached this Court seeking the relief of anticipatory bail.

2. The prosecution alleges that the applicant, along with the co-accused, in furtherance of their common intention, deceived the informant and other investors into investing Rs.23,61,000/- in the scheme of the credit society, Mahaswaraj Credit Cooperative Limited, by promising lucrative returns. When the informant requested the

accrued profits, the accused issued cheques that were dishonoured, resulting in the lodging of the First Information Report (FIR).

3. Ms Aruna Pai, the learned Counsel appearing on behalf of the applicant, asserts the applicant's innocence. She contends that the applicant has been falsely implicated in the crime as his signature has been forged by his father, the co-accused. The learned Counsel points out that the applicant did not benefit from the invested funds, and the primary offender, the co-accused, has already been arrested. Ms Pai highlights a significant and unexplained delay in filing the FIR, emphasising that the alleged crime took place between 2018 and 2020, but was only registered in 2023. The applicant, based in Bangalore, is a software engineer by profession, and never met the informant nor other investors at any point of time. She further submits that no recovery or discovery is to be made at the applicant's instance. The applicant has no criminal antecedents and is willing to cooperate with the investigation and adhere to the Court's conditions, including providing handwriting and signature specimens to the investigating officer.

4. On the other hand, Ms Supriya Kak, the learned Additional Public Prosecutor representing the respondent/ State, opposing the application, argues that the funds were invested in the credit society, where the applicant serves as secretary and the co-accused as chairman. The applicant signed the cheques that were given to the informant. The applicant has not cooperated with the investigation, necessitating his custodial interrogation. The learned APP raises concerns about

granting pre-arrest bail, apprehending that the applicant may tamper with the evidence or influence the witnesses.

5. Upon perusing the records, it transpires that the allegations against the applicant pertain to persuading the informant to invest in the credit society's scheme and failing to deliver the promised return. The alleged offence occurred between 2018 and 2020, with the crime being registered in 2023 without any justification for the three-year delay. *Prima facie*, the applicant does not seem to be the beneficiary or recipient of the funds. The case relies upon documentary evidence, which are already in the custody of the investigating agency. Furthermore, the applicant has no criminal antecedents, and is willing to attend the concerned Police Station and cooperate with the investigation.

6. The Hon'ble Supreme Court in ***Ashok Kumar Vs State of Union Territory Chandigarh***¹ observed as follows:

"12. There is no gainsaying that custodial interrogation is one of the effective modes of investigating into the alleged crime. It is equally true that just because custodial interrogation is not required that by itself may also not be a ground to release an accused on anticipatory bail if the offences are of a serious nature. However, a mere assertion on the part of the State while opposing the plea for anticipatory bail that custodial interrogation is required would not be sufficient. The State would have to show or indicate more than prima facie why the custodial interrogation of the accused is required for the purpose of investigation."

1 SLP (Cri.) No.9949 of 2023 dated 1 March 2024

7. In this backdrop, this Court is inclined to exercise its discretion in favour of the applicant. The prosecution's apprehension about evidence tampering and witness influence can be addressed by imposing appropriate conditions. Hence, the following order:

ORDER

(i) In the event of the applicant's arrest in connection with CR No.360 of 2023, registered at Bazar Peth Police Station, Kalyan, he shall be released on bail upon executing a PR Bond of Rs.25,000/- and furnishing one or more sureties in the like amount.

(ii) The applicant shall attend the concerned Police Station on 25th, 26th and 27th September 2024 between 11 a.m. and 2 p.m. and cooperate with the investigation, and thereafter attend the concerned Police Station as and when required.

(iii) The applicant, himself or through any other person, shall not tamper with the evidence or influence the witnesses.

8. The application stands disposed of accordingly.

(R.N. LADDHA, J.)