

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2701 OF 2024**

Babasaheb Jaywant Samrut ... Applicant

vs.

The State of Maharashtra ... Respondent

Mr. Dilip B. Shinde a/w. Mr. Mohan C. Kumbhar for applicant.

Mr. Prasanna P. Malshe, APP for respondent-State.

Mr. Sandip Khedkar, API, Bundgarden Police Station, District Pune City.

**CORAM : MANISH PITALE, J.
DATE : 04th OCTOBER, 2024**

P.C. :

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

2. The applicant has filed this application as he apprehends arrest in connection with FIR No. 0326 of 2023 dated 20.10.2023, registered at Bundgarden Police Station, District Pune City for offences under Sections 420, 465, 468, 471 and 511 of the Indian Penal Code, 1860.

3. At the outset, the learned APP submitted that an earlier application bearing Anticipatory Bail Application No.74 of 2024 filed by this very applicant, was disposed of by an order dated 12.01.2024 passed by this Court (Coram: Sarang V. Kotwal, J). It was recorded that when the Court was not inclined to grant relief to the applicant, he had unconditionally withdrawn the application. It is submitted that in such a situation, the applicant cannot be allowed to re-argue his case before this Court.

4. In response, the learned counsel for the applicant submitted that subsequent to the aforesaid order of this Court, on 22.02.2024, the applicant had submitted a complaint against the person, who had provided the forged bank guarantee to him. It is submitted that when the police failed to take any action in that regard, the applicant was constrained to move the jurisdictional magistrate under Section 156(3) of the Criminal Procedure Code, 1973 (Cr.P.C.) in March 2024 and on the basis of the order passed by the magistrate, as on today, an FIR has been registered at the behest of the applicant against the aforesaid person, who had provided forged bank guarantee to him.

5. He further submitted that in any case, the applicant had not collected the initial 10% amount in terms of the contract and therefore, there was no pecuniary loss caused to the Maharashtra Jeevan Pradhikaran, thereby indicating that this is a fit case for granting anticipatory bail.

6. This Court is of the opinion that the present application is not maintainable before this Court. It is pertinent to note that the applicant had filed the aforementioned Anticipatory Bail Application No.74 of 2024. The same was argued on merits and on 12.01.2024 and it was disposed of in the following manner:

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CORAM: SARANG V. KOTWAL, J.
DATE: 12th JANUARY, 2024

P.C.:

1. After arguing for some time, when I expressed my disinclination to grant relief in this Application, learned Counsel for the Applicant prays for unconditional withdrawal of this Application.

2. Permission is granted. The Application is allowed to be withdrawn unconditionally and is disposed of accordingly.”

7. A perusal of the above-quoted order clearly shows that the applicant took a chance on merits and when this Court was inclined to reject his application, he unconditionally withdrew the same. In support of the present application, the learned counsel for the applicant is again raising the same issues on merits with regard to his claim that no pecuniary loss was caused to the Maharashtra Jeevan Pradhikaran and that in such circumstances, he has made out a *prima facie* case in his favour.

8. The applicant cannot be allowed to have a second bite at the cherry in such a manner. He was always at liberty to have suffered an adverse order and to have challenged the same in accordance with law, when his first anticipatory bail application was considered by this Court. Having withdrawn the same unconditionally, when this Court expressed its opinion that it would be rejecting the application, the applicant cannot be allowed to pursue the present anticipatory bail application.

9. This Court is also of the opinion that approaching the police on 22.02.2024 and thereafter, moving the jurisdictional magistrate under Section 156(3) of Cr.PC. in March 2024, after having unconditionally withdrawn the earlier anticipatory bail application on 12.01.2024, was an after-thought and the applicant cannot be allowed to pursue the present application on that score.

10. In view of the above, the application is dismissed.

(MANISH PITALE, J)