

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

ANTICIPATORY BAIL APPLICATION NO. 2736 OF 2024

Anwar Hussain Ansari

..Applicant

Versus

The State of Maharashtra

..Respondent

Mr. Diwakar Singh (appeared through V.C.) a/w. Ms. Kajal Singh
for Applicant.

Mr. Sukanta A. Karmarkar, APP for State/Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 28 NOVEMBER 2024**

PC :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.36 of 2022 registered with Malwani police station, on 31.01.2022, under sections 120B, 323, 418, 420, 465, 467, 468, 504 and 506(2) r/w. 34 of the I.P.C. This is the second time that the applicant has approached this Court for the same relief of anticipatory bail. On the earlier occasion, he had preferred Anticipatory Bail Application No. 718 of 2024. On that occasion i.e. on 14.03.2024 the following order was passed:

“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 The application is allowed to be withdrawn unconditionally and is disposed of as such.”

2. Thus, it can be seen that the matter was fully argued and when the Court expressed disinclination to grant relief, it was unconditionally withdrawn. Even after that, this present application is filed in the month of October 2024 i.e. on 03.10.2024. No fresh grounds are available to the applicant. However, in the interest of justice, I have entertained this application because the applicant is in Dubai and LOC is issued against him.

3. Heard Mr. Diwakar Singh, learned counsel for the applicant and Mr. Sukanta Karmarkar, learned APP for the State.

4. The F.I.R. is lodged by one Mohammad Irfan Ayub Khan. He has stated that, he was knowing the present applicant since about four years prior to lodging of the F.I.R. in the year 2022.

They were friends. In November 2016, the applicant informed him about other two accused Niraj Khatnagar and Kisan Khatnagar. The applicant told the informant that, if the informant invested Rs.1 lakh in the business of those two, he would get Rs.15000/- p.m. On the next day, the applicant called him at a hotel and introduced him to those two persons in the hotel. Both these persons told the informant about their scheme. The informant was impressed with their scheme. Therefore, on 12.11.2016 the informant gave a cheque of Rs.1 lakh drawn on ICICI Bank in the name of the present applicant who encashed it in his bank account. After that the applicant and other two accused called the informant to a flat at Bhandup. There was a TV kept in the flat and the accused gave him demonstration as to how he could earn money. The informant further told this scheme to his friends. On 07.12.2016, the applicant met the informant at Malwani and told him that he should deposit further amount in the bank account of the other accused. However, the informant told the applicant that, he did not know those two other persons and that he would rather deposit the amount in the applicant's account. Accordingly, he gave

another cheque to the applicant to the tune of Rs.3,80,000/- through the informant's firm. That cheque was also encashed in his own account by the applicant. Initially, the co-accused Niraj deposited Rs.15000/- in the informant's account and for the next two months also he paid the amount. Thus, he paid Rs.60000/- to the informant. The informant, therefore, started trusting them more and more. He further told about this scheme to his friends. The F.I.R. thereafter goes on to mention as to how the informant and others deposited money in the accounts of all the accused including the applicant. The F.I.R. mentions that the informant and his friends invested Rs.92,88,000/- in all through cheque and cash in the accounts of the applicant and other accused. Only Rs.9 lakhs were returned, but the rest of the amount was misappropriated. Thus, the accused committed misappropriation of Rs.92,88,000/-. On this basis the F.I.R. was lodged.

5. Learned counsel for the applicant submitted that the first informant has settled the matter with the accused No.2 Niraj. The applicant himself had taken only Rs.3,80,000/- in his account. He had played a role of only introducing other main two accused to

the informant. The transaction is in the year 2016 and for the first time the applicant approached the police in 2021. Thus, there is a delay which shows that the F.I.R. was lodged to pressurise the applicant as an afterthought. Till 2018, there was no F.I.R. The applicant was unaware of any allegations against him and, therefore, he left India for Dubai in the year 2018. Learned counsel submitted that the other co-accused Kisan Khatnagar is granted bail by a co-ordinate bench. He further submitted that the co-accused Niraj had already returned Rs.50 lakhs to the informant.

6. Learned APP submitted that the statement that co-accused Niraj had paid Rs.50 lakhs to the informant is not correct. He further submitted that the investigation has revealed that the applicant has received more than Rs.30 lakhs from the informant. There are in all 11 investors, out of whom, 5 investors have come forward. Learned APP produced the bank statements, and the statements recorded during the investigation, before the Court.

7. I have considered these submissions. As far as the co-accused Kisan is concerned, he is granted regular bail and not the anticipatory bail. Even in that order, the observation in paragraph-8 shows that the allegations in the F.I.R. were directed towards the present applicant, as the initial inducement was made by him. Even otherwise, the F.I.R. shows that, it was the applicant who had induced the informant to invest in the scheme. The amount was actually accepted by the applicant.

8. Learned APP relied on the investigation carried out in this case which included bank statements which show that substantial amount was deposited in the bank account of the applicant himself. According to the investigating agency, this amount is around Rs.30 lakhs. Thus, it cannot be said that the applicant has played a minor role of merely introducing the informant to other co-accused. He had actually accepted major amount. Learned APP states that the accused Niraj is absconding and the present applicant is not available for the investigation as he is not in India. Thus, it can be seen that the applicant is deeply involved and he cannot be protected by an order in the nature of

anticipatory bail. His custodial interrogation is necessary. No case for grant of anticipatory bail order is made out.

9. The application is rejected.

(SARANG V. KOTWAL, J.)