

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

Anticipatory Bail Application No. 2887 of 2024

Amir Suhail Dhamaskar
Age 23 years, Occ: Service,
R/ at: 503, Blue Bird Building
Nathani Complex Old Mumbai
Pune Road, Near Millennium
Hospital, Mumbra, Thane – 400612. ... Applicant

versus

The State of Maharashtra
(Through Naupada Police Station) ... Respondent

Mr Prashant Yadav, along with Mr Niraj Tripathi and Mr Govind Singh, for the applicant.

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

PSI Rahul Khandale, Naupada Police Station, Thane, is present.

Coram: R.N. Laddha, J.

Date: 23 October 2024.

P.C.:

The applicant, apprehending arrest in CR No.901 of 2024, registered at Naupada Police Station, Thane, for offences punishable under Sections 140(3) and 309 read with 3(5) of the Bharatiya Nyaya Sanhita, 2023, has filed the present application seeking pre-arrest bail.

2. It is the case of the prosecution that in June 2024, the applicant, in connivance with the co-accused, lured the informant into cryptocurrency trading by promising a commission for each trade. They convinced the informant of the scheme's profitability, thereby gaining his trust. However, as part of their deceptive plan the accused later presented the informant with a falsified screenshot, falsely indicating that USD 1910 had been transferred to him. Using this fabricated material, the co-accused demanded repayment of the supposed amount. When the informant refused to comply, the situation escalated. On 3 August 2024, the applicant, along with the co-accused, kidnapped the informant. During this abduction, they forcibly took Rs.3,000/- in cash, along with signed blank cheques, from the informant. Additionally, the informant was coerced into recording a video in which he admitted liability for the alleged amount, furthering their fraudulent scheme. These actions were intended to intimate the informant and create false evidence against him to justify their illegal and unfounded financial demands.

3. Mr Prashant Yadav, the learned Counsel appearing on behalf of the applicant, contends that the applicant's involvement in the alleged incident was minimal, limited to making a phone call to the informant at the behest of the co-

accused. The learned Counsel asserts that the applicant left the scene immediately after the call and had no further involvement in the subsequent events. The learned Counsel submits that the applicant is innocent and has been falsely implicated in the present crime.

4. Ms Supriya Kak, the learned Additional Public Prosecutor representing the respondent/ State, contends that the applicant and the co-accused kidnapped the informant in the Creta car and forcibly took Rs.3,000/- and signed blank cheques from him. They also coerced him into recording a video admitting liability for the alleged funds. Furthermore, the learned APP submits that cryptocurrency trading is unregulated in India and asserts that the offence is serious. The car and devices involved have not yet been recovered. The applicant's custodial interrogation is also necessary to identify all individuals involved in the crime.

5. This Court has given anxious consideration to the rival submissions canvassed across the Bar and perused the material on record.

6. The decision to grant anticipatory bail requires careful and prudent discretion by the Court, taking into account the specific circumstances of each case. While exercising this

power, the Court must proceed with caution, recognising that granting protection in serious cases could potentially result in a miscarriage of justice or hinder the ongoing investigation by allowing tampering or destruction of evidence. These aspects are highlighted in *Srikant Upadhyay & Ors. v. State of Bihar & Anr.*¹

7. In the present case, it appears that on 3 August 2024, the applicant contacted the informant by phone. Following this, at the applicant's request, the informant met with the co-accused. Upon arriving at the meeting location, the informant was allegedly kidnapped by both applicant and the co-accused, who then took him to a secluded area, there they reportedly forcibly took Rs.3,000/- in cash and signed blank cheques from him, deleted data from his phone, and coerced him into recording a video admitting to a false liability. At this stage, based on the material on record, including the statement of the witnesses and the CCTV footage, there is *prima facie* material indicating the applicant's involvement in the crime. The applicant's defence cannot be considered at this juncture. Furthermore, both the mobile phone and the vehicle involved are yet to be recovered, and the investigation remains in its early stages. According to the learned APP, there is also a strong possibility that other

¹ 2024 SCC OnLine SC 282.

victims in similar situations may come forward. To ensure thorough investigation, custodial interrogation of the applicant would be necessary. Granting pre-arrest bail at this stage could compromise the investigation and hinder its effectiveness.

8. Given the above, this Court is not inclined to grant pre-arrest bail to the applicant. As a result, the application stands rejected.

(R.N. Laddha, J.)