

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

Anticipatory Bail Application No. 2897 of 2024

Nitin Vishram Salvi

An adult, aged about 40 years,

R/at. Room No.203, Bldg. No.12,

Shivai CHS Ltd., MMRDA,

Karve Nagar, Kanjurmarg (East),

Mumbai – 400 042.

... Applicant

versus

The State of Maharashtra

(At the instance of Bhandup Police

Station, CR No.0669/2024)

... Respondent

with

Interim Application No. 4671 of 2024

in

Anticipatory Bail Application No. 2897 of 2024

Dr Aditya Vilas Walawalkar

Aged about 40 years,

R/at. A Wing, Flat No.501,

Prem Vishnu Co-Op. Hsg. Society

Ltd., Chafekar Bandhu Marg,

Mulund (E), Mumbai – 400 081.

...Intervenor

In the matter between

Nitin Vishram Salvi

Aged about 40 years,

R/at. Room No.203, Bldg. No.12,

Shivai CHS Ltd., MMRDA,

Karve Nagar, Kanjurmarg (East),
Mumbai – 400 042.

... Applicant

versus

The State of Maharashtra
(Through Bhandup Police Station,
CR No.669/2024)

... Respondent

Mr Dilip Shinde i/b Mr Mohan Kumbhar, for the applicant.

Mr Yogesh Y Dabke, APP, for the respondent/ State.

Mr Subodh Desai, Senior Advocate i/b Mr Kartik Garg, for the
intervenor.

API Nadvinkeri Avinash, Bhandup Police Station, Mumbai, is
present.

Coram: R.N. Laddha, J.

Date: 10 December 2024.

P.C.:

By this application, the applicant seeks pre-arrest bail in connection with CR No.669 of 2024, registered at Bhandup Police Station, Mumbai, for offences punishable under Sections 420, 465, 467, 468 and 471 of the Indian Penal Code.

2. The prosecution alleges that the applicant persuaded the informant to pay him Rs.16,25,000/- promising him the allotment of a shop and flat in MMRDA's projects at Kanjurmarg, Mumbai, at a concessional rate. The applicant

further assured the applicant of the allotment by producing false provisional allotment letters and other documents. Instead of delivering the possession of the premises or refunding the collected amounts, the applicant misappropriated the funds and deceived the informant.

3. Mr Dilip Shinde, the learned Counsel appearing on behalf of the applicant, contends that the applicant was in financial distress and borrowed a certain amount from the informant. The entire case is based on a civil transaction, which is given a criminal colour. The learned Counsel, emphasising the applicant's innocence, submits that the applicant has been falsely implicated in the present crime, and his custody is unwarranted.

4. Mr Yogesh Dabke, the learned Additional Public Prosecutor representing the respondent/ State, and Mr Subodh Desai, the learned Senior Counsel appearing for the informant/ intervenor, jointly argue that the offence is serious. They emphasise that the applicant assured an allotment in the MMRDA's projects and accepted significant sums. He also produced forged provisional allotment letters under the guise of securing the allotment in the government project. The consideration amount was partly cash and partly through

banking channels. The learned APP highlights that the investigation is ongoing, and the applicant has criminal antecedents of a similar nature. The applicant's custody is required to uncover the fraud, ascertain those involved in the crime and find the money trail.

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

6. It is a settled position in law that granting pre-arrest bail is an extraordinary power. While regular bail is generally considered the norm, the same principle does not apply to anticipatory bail. Considering each case's specific circumstances, the Court must exercise careful and prudent discretion when deciding whether to grant anticipatory bail. There is no straitjacket formula. Caution is necessary, as granting protection in serious cases could potentially hinder investigation or lead to miscarriage of justice by allowing tampering with evidence. A profitable reference in this regard can be made to *Srikant Upadhyay Vs State of Bihar*¹.

7. The applicant appears to be accused of falsely assuring the allotment of premises in MMRDA's projects at Kanjurmarg, supplying forged provisional allotment letters, and accepting

¹ 2024 SCC OnLine SC 282

funds to that effect. The records reveal that the MMRDA never issued any allotment letters in favour of the applicant. Further, the material on record *prima facie* indicates that the applicant received the funds in cash and through banking channels and benefited from it. Admittedly, the applicant was never authorised to act as an agent for the allotment of premises in government projects. Furthermore, the investigation is ongoing, and the applicant has criminal antecedents of a similar nature. In such cases, custodial interrogation becomes essential to unearth the fraud in all its facets and find the money trail. The possibility of there being similarly circumstanced victims is also imminent. Release of the applicant on pre-arrest bail would jeopardise the course of an effective investigation.

8. In light of the above, this Court is not inclined to exercise its discretion in favour of the applicant. Resultantly, the application stands rejected. As a sequel, the pending application also stands disposed of.

(R.N. Laddha, J.)