

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

Anticipatory Bail Application No. 2985 of 2024

Chandan Khengarji Gohil

Aged 50 years, Occ.: Business,

Permanently residing at – Flat No.A/702,

Building No.35, Sargam CHS, Near Ganesh

Garden, Tilak Nagar, Chembur,

Mumbai – 400 089

... Applicant

versus

The State of Maharashtra

(Through Vartak Nagar Police Station)

... Respondent

With

Anticipatory Bail Application No. 3256 of 2024

Dakshit Khengarji Gohil

Aged 29 years, Occ.: Employee,

Permanently residing at – Flat No.A/702,

Building No.35, Sargam CHS, Near Ganesh

Garden, Tilak Nagar, Chembur,

Mumbai – 400 089

... Applicant

versus

The State of Maharashtra

(Through Vartak Nagar Police Station)

... Respondent

Mr Nikhil Wable, a/w. Mr Punit Vyas, i/b. Jayakar and Partners,
for the applicants in both ABAs.

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

Mr Abhinandan Waghmare, i/b. Kolhe, for the intervenor/

informant.

PSI Sangam Patil, Vartaknagar Police Station, is present.

Coram: R.N. Laddha, J.

Date: 3 December 2024.

P.C.:

By these applications, the applicants seek pre-arrest bail in connection with CR No.840 of 2024, registered at Vartaknagar Police Station, Thane, for offences punishable under Sections 420 read with 34 of the Indian Penal Code.

2. The prosecution alleges that the applicants persuaded the informant and others to pay them a total of Rs.52,41,003/- under the pretence of securing benefits from various government schemes, including Loan Subsidy, Apang Yojana, and the Pradhan Mantri Awas Yojana. Instead of delivering the promised benefits or refunding the collected amounts, the applicants embezzled the funds and deceived the informant.

3. Mr Nikhil Wable, the learned Counsel appearing on behalf of the applicants, contends that in 2022, Chandan sought financial assistance to expand her saree business and was introduced to accused No.3, who facilitated a loan for her in the name of Bhavana Joshi on commission. Accused No.3 later explained the scheme to Chandan, promising her a commission for participation. On this assurance, Chandan assisted

underprivileged individuals in accessing government schemes and earned commissions deposited into her and Dakshit's bank accounts. The informant, who also needed financial assistance, learned about the scheme from accused No.3 and subsequently participated, bringing in clients to earn a commission. However, when banks began demanding EMI payments, the informant, Bhavana Joshi, and accused No.3 shifted the responsibility on to Chandan and began harassing the applicants. Chandan reported their behaviour to Vartak Nagar Police Station and Tilak Nagar Police Station on 11 September 2023 and 26 September 2023, respectively. According to the learned Counsel, except for receiving alleged funds in Dakshit's bank account, there are no allegations of inducement against him. Further, there is no material on record to show inducement or other incriminating acts against the applicants. The learned Counsel submits that the applicants are victims of the circumstances, falsely implicated in the crime, and are ready to cooperate with the ongoing investigation.

4. Ms Supriya Kak, the learned Additional Public Prosecutor representing the respondent/ State, and Mr Abhinandan Waghmare, the learned Counsel appearing for the intervenor/ informant, argue that the offence is of a serious nature. They emphasize that Chandan misled individuals into securing loans

under the guise of accessing government schemes benefits. A proportion of these disbursed funds was distributed between Chandan and accused No.3 as commissions, with the funds routed through Dakshit's bank account and cash transactions. The accused also enticed victims to recruit others into the scheme by promising them commissions. The learned APP highlights that the investigation is ongoing, with eighteen victims coming forward, and the funds invested remain unrecovered. Custodial interrogation of the applicants is deemed necessary to identify all those involved in the crime.

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 applicants are accused of misappropriating Rs.52,41,003/- by falsely claiming benefits from various government schemes and assuring the informant that she would not need to pay the EMI if she referred other individuals to the scheme. It is undisputed that Chandan acts as an agent to assist individuals obtain the benefit of government schemes in exchange for a commission. *Prima facie*, the material on record indicates that the applicants received the invested funds through banking channels and cash transactions and benefited from them. The applicants claim to have been harassed and threatened by the informant, Bhavana Joshi, and accused No.3; however, there is nothing on record to show that the applicants sought legal recourse to address their grievance. In cases of this nature, the custodial interrogation becomes essential to unearth the fraud in all its facets and find the money trail. The possibility of there being similarly circumstanced additional victims is also imminent. Release of the applicants on pre-arrest bail would jeopardise the course of effective investigation. Given the foregoing, this Court is not inclined to exercise its discretion in favour of the applicants. Resultantly, the applications stand rejected.

(R.N. Laddha, J.)

¹ 2024 SCC OnLine 282.