IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.742/2025

PRAVIN PUSHPAK AGARAWAL ...APPLICANT
VS
THE STATE OF MAHARASHTRA ...RESPONDENT

WITH
INTERIM APPLICATION (ST) NO.6006/2025
IN
ANTICIPATORY BAIL APPLICATION NO.742/2025

MANISHKUMAR KAILASHCHANDRA DHOOT ...APPLICANT
IN THE MATTER BETWEEN
PRAVIN PUSHPAK AGARAWAL ...ORI. APPLICANT
VS
THE STATE OF MAHARASHTRA ...RESPONDENT

WITH
ANTICIPATORY BAIL APPLICATION NO.743/2025

MAYUR PANKAJ AGARAWAL ...APPLICANT
VS
THE STATE OF MAHARASHTRA ...RESPONDENT

WITH
INTERIM APPLICATION (ST) NO.6007/2025
IN
ANTICIPATORY BAIL APPLICATION NO.743/2025

MANISHKUMAR KAILASHCHANDRA DHOOT ...APPLICANT
IN THE MATTER BETWEEN
MAYUR PANKAJ AGARAWAL ...ORI. APPLICANT
VS
THE STATE OF MAHARASHTRA ...RESPONDENT

...

Adv. Kedar Patil a/w Mr. Pratik G. Tare, Sakshi S. Kadam for the Applicants in both ABA
Adv. H. S. Venegaonkar, Chief PP a/w Amit A. Palkar, APP for the State in ABA/742/2025.
Adv. H. S. Venegaonkar, Chief PP a/w Ajay S. Patil, APP for the State in

ABA/743/2025.
Adv. Abhishek M. Karnik i/b Akash Murudkar for the Applicant in IAST/6006/2025.
Adv. Sanjeev Kadam, Sr. Advocate a/w Prashant Raul, Varsha Thorat i/b Akash Murudkar for the Applicant in IAST/6007/2025.
API Mr. Sharad Kaka Waydande, Shivajinagar Police Station, Ichalkarnji, Dist. Kolhapur.

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CORAM : RAJESH S. PATIL, J.

DATED : MARCH 18, 2025

P.C.:

INTERIM APPLICATION (ST) NO.6006/2025 IN ANTICIPATORY BAIL APPLICATION NO.742/2025 WITH INTERIM APPLICATION (ST) NO.6007/2025 IN ANTICIPATORY BAIL APPLICATION NO.743/2025 :

1. The interim applications have been filed by the first informant to permit him intervening the anticipatory bail applications.

2. For the reasons mentioned in the interim applications, the interim application are allowed in terms of prayer clause (a).

3. The **interim applications is disposed of accordingly**.

ANTICIPATORY BAIL APPLICATION NO.742/2025 WITH ANTICIPATORY BAIL APPLICATION NO.743/2025 :-

1. The applicant Pravin Pushpak Agarawal is arraigned as accused no.5 and applicant Mayur Pankaj Agarawal is arraigned as accused no.1 in CR. No. 146/2025 registered with Shivajinagar Police Station for the offences punishable under Section 406, 420, 409, 465,

467, 468 r/w section 34 of the Indian Penal Code, 1860.

2. It is the case of the prosecution that the accused persons are the members of a family. There is a partnership firm named as Mayur Industries, wherein accused-Mayur Agarawal is a partner along with Varsha Agarawal. All the family members including the accused Pravin Agarawal, participate in the business of the firm and as far as the first informant's transaction is concerned, all the accused together were part of the transaction wherein it was promised to the first informant that a good quality of yarn would be supplied to him. Accordingly, an advance payment of Rs.1,21,44,370/- was paid to the partnership firm from 6 December, 2022 to 29 December, 2022 through the RTGS. However, the yarn was not supplied. Hence, FIR was lodged.

3. It is the case of the applicant that as far as the accused-Pravin Agarawal is concerned, he has no role to play with the partnership firm. Admittedly, the amount was paid to the partnership firm. The accused-Pravin Agarawal is not concerned with day to day affairs of the firm. As far as the partnership firm is concerned, wherein, the accused-Mayur Agarawal is partner, due to financial loss, the firm was not able to supply the yarn neither was able to return back the money. There is no question of cheating the first informant as admittedly, the amount was received by the partnership firm. However, the partnership firm was not able to pay back or supply the yarn due to

the business losses of the partnership firm. There is no question to arrest the present applicants. They are not hardcore criminals. They are ready to co-operate with the police. Hence, their custody is not at all necessary.

4. The learned PP and the learned Sr. counsel for the first informant submits that the present applicants along with all other accused have a *modus operandi*, wherein, they take monies from parties on promise to supply goods. After the monies are received, the goods are not supplied. There are several such cases pending against them at industrial town of Ichalkaranji. So also, there is a case against accused-Pravin Agarawal for evading government tax (VAT) amounting to Rs.94,08,536/-. As far as the present crime is concerned, when only a complaint was lodge and the police was not taking any action for registering an FIR, the applicants moved an application for anticipatory bail before the Sessions Court. Not disclosing what were the sections involved. The anticipatory bail was granted to accused-Mayur Agarawal. However, Cancellation of bail application is pending before this Court. Subsequently, the first informant filed a Writ Petition before the Division Bench of this Court pointing out the fact that FIR has not been lodged due to certain pressure created by the accused persons. On 28 February 2025, after the matter was argued, a statement was made on behalf of the State that an FIR would be lodged very soon, pursuant to which,

Writ Petition was disposed of. Both the applicants are habitual offender. Monies which are transferred in the account of the partnership firm are subsequently being transferred to the bank account of all the accused persons, including the accused-Pravin Agarawal. Hence, the accused-Pravin Agarawal is a beneficiary. Therefore, the custody of the applicants is necessary in order to investigate the crime.

5. I have heard the counsels for all the sides and I have considered the documents on record produced by both the sides.

6. There is no dispute on the fact that there are several other cases pending against the present applicants. The learned PP submitted that, (i) there are at least dozens of 138 complaints pending against the accused persons before the Magistrate Court; (ii) Even against the accused-Pravin Agarawal, a VAT related case is pending, the copy of the same has been enclosed to the interim application at page 38; (iii) Apart from that at least 3 more crimes have been registered where a similar kind of *modus operandi* has been used, where monies are received by the accused persons and thereafter, goods in the form of yarn has not been supplied. According to the PP, the total amount involved is at least Rs.70 crores. The crime has now been transferred to Economical Offence Wing of the police. Bank entries shown to me, refers to amount being transferred to the accounts of the present applicants.

7. The learned counsel for the applicants/accused-Pravin Agarawal submitted that after the amounts were paid by the first informant to the partnership firm, around Rs.7 to 8 lakhs have been received in the bank account of the accused. However, these monies were received after around 16 months from the amount being paid to the partnership firm. Therefore, according to him, there cannot be any relation of that money being money involved in the crime.

8. According to me the fact remains that after the partnership firm receives money from different parties like the first informant in the present crime, those amount does not remain in the partnership firm but is immediately transferred to the bank account of all the accused. Two accused persons have been arrested. There are several antecedents against the present applicants. The physical presence of the applicants for interrogation is necessary for completion of investigation. Moreover, this is a possibility that the applicants pressurizing and threatening the witnesses and likely to tamper with evidence.

9. The Supreme Court in case of *Sumitha Pradeep vs. Arun Kumar C.K. and another* [1] in paragraph 12 has held as under :-

> "12……….. In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail.

1 2022 SCC Online SC 1529

Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline anticipatory bail. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail."

(Emphasis supplied)

10. A similar view has been taken by the Supreme Court in the case of *the C.B.I. vs. Anil Sharma*[2], in paragraph 4 which reads as under:-

> "4. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favorable order under Section 438 of the Code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible Police Officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring would not conduct themselves as offenders."

(Emphasis supplied)

11. Taking into consideration the contents of the FIR and the documents produced before me and the law laid down by the Supreme

2 AIR OnLine 1997 SC 797

Court as noted above, the **anticipatory bail applications of the applicants stand rejected.**

(RAJESH S. PATIL, J.)

Signed by: Harish V. Chaudhari
Designation: PA To Honourable Judge
Date: 19/03/2025 14:57:38