

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1092/2025

SHANKAR DEVIDAS KHANDARE

...APPLICANT

VS

STATE OF MAHARASHTRA

...RESPONDENT

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VITHAL
CHAUDHARI

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Adv. Shirish Gupte, Senior Advocate a/w Jayant Bardeskar for the Applicant.

Adv. Ajay S. Patil, APP for the Respondent State.

Mr. Rajesh Vasant Waghmare, Deputy Superintendent of Police, Anti Corruption Bureau, Dist- Satara.

...

CORAM : RAJESH S. PATIL, J.

DATED : MAY 9, 2025

ORDER.:

1. By this application, the applicant is seeking indulgence of court for grant of anticipatory bail in pursuant of C.R No.340/2025 of Karad city police station, for the offences punishable under sections 7, 7A, 12 of Prevention of Corruption Act, 1988, as per section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023.

2. Based on the complaint, an FIR was lodged. The role of the present applicant has been stated in the FIR.

3. In all, there are four accused persons arraigned in the FIR. Three of the accused persons are staff working with the office of Karad

Municipal Council. Out of the four accused persons, three accused persons were arrested.

4. The present applicant is accused no.1, who has been shown as absconding and at the relevant time, he was the Chief Officer of Karad Municipal Council. A complaint was lodged on the basis that in the year 2017, a development permission was granted for construction of a building of ground plus five storey. Subsequently, there was a change in Development Control Regulations, due to which additional FSI was made available on the said plot of land. Hence, the complainant applied for getting the benefits of additional FSI. The present applicant-accused no. 1 was the Chief Officer of Karad Municipal Council. Being the head of the Municipal Council, he was responsible for granting the ultimate permission for construction. Such constructions are granted by a permission along with which, the concern person required to pay requisite amount. The said amount is mentioned in a document called as “challan”.

5. It is interesting to note here that the State of Maharashtra had issued a Government Resolution on 20 March 2025 whereby, around 76 Chief Officers of different Municipal Councils were transferred. The said Government Resolution was shown to me by the learned APP. After recording in the Government Resolution about the 76 transfers, which mentions the old posting, name of the persons and new

posting. In the penultimate para, four person's names are mentioned, who were supposed to relieve from their post on 20 March 2025. However, no new posting was given to these four officers. The name of the present applicant is amongst the said four persons, and in the 76 transfers mentioned in the earlier paragraphs of the Government Resolution, a person by name Prashant Whatkar has been shown to take over the post of Chief Officer of Karad Municipal Council.

6. This according to me it is clarified that the present applicant was not supposed to be in the office of Chief Officer of Karad Municipal Council from 20 March 2025. Hence, he was not supposed to sign any documents after 20 March 2025. It has also come on record as shown to me by the learned APP that from 20 March 2025, the applicant left the office of Karad Municipal Council, and on 24 March 2025, Mr. Prashant Whatkar joined duty as a new Chief Officer of Karad Municipal Council. Hence, after 20 March, 2025, there was no reason for the applicant to be in the office of the Karad Municipal Council. This discussion is made by me because, it is the applicant's case that on 24 March 2025, he has signed certain documents, which were brought in front of him by accused no. 2-Assistant Town Planner. It is a case of the applicant that he was told that the new Chief Officer is not ready to sign the documents as the date on the documents was 6 March 2025. Believing the statement of accused no.2, the present applicant had

signed those documents.

7. The said documents signed by the present applicant is “challan” which was dated, 6 March 2025. The learned APP has shown to me from his case diary whatsapp chats and messages exchange between the present applicant, accused no. 2 and accused no. 3. Upon going through these documents, I am satisfied that the present applicant initially had forwarded the unsigned document of challan and the letter along with it. Subsequently, he signed the documents i.e. challan and letter on 24 March 2025, which were back dated to 6 March 2025. The learned APP has also shown to me that earlier, the challan and the letter had no date and outward number. Subsequently, both the documents were having date as 6 March 2025 and there was also a outward number given to both the documents. It will be interesting to note here that the learned APP has also shown me the register of outward number of both the documents. The numbers which have been put up as the outward number in fact belongs to documents pertaining to some third person and the date being 15 September 2023 and 6 March 2025. One more thing is noted by me that in the register of challan numbers, as far as the challans dated 6 March 2025 are concerned, at least 10 blank entries are found. In short, if somebody wants to insert any numbers, even now that can be done after span of three months.

8. It was the argument on behalf of the learned APP that they would like to make inquiry on the said subject because apart from the present crime, there is strong likelihood that, many other such crimes must have been committed by the present applicant along with the support of other staff of Municipal Council. The learned APP has also shown to me a letter at page no. 155 whereby, there is a reference of at least 3 similar kind of complaints against the present applicant.

9. Even the conversation which is attached to the compilation shows that the present applicant was in touch with the complainant and with accused nos. 2 and 3. The accused no. 2 has assured the complainant as per the conversation that his work of sanctioning of additional FSI would be done as part payment has already been received. All these conversations are after the applicant has in fact relieved from duty.

10. An argument has been made on behalf of the applicant that why the custody of the present applicant is necessary when he has ready to co-operate with the police machinery. He is ready to hand over his mobile phone and his voice sample. For which two orders passed by the Single Judge of this Court has been referred to.

11. As far as the two orders which have been referred on behalf of the applicant, the entire factual matrix of those orders are not

mentioned in the orders. Therefore, in what kind of a circumstances, the orders were passed is not know. Therefore, the question in the present crime would be, whether if a person is ready to give his voice sample and his mobile phone will that be enough for the investigating officer to complete his investigation.

12. The Supreme Court in case of *Sumitha Pradeep vs. Arun Kumar C.K. And Anr*, 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. 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)

13. A similar view has been taken by the Supreme Court in the case of the *C.B.I. vs. Anil Sharma*, 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)

14. For the purpose of investigation, the police requires interrogation of the present applicant. Considering the facts in the present matter where there is on record enough conversation suggesting that the applicant was in contact with co-accused and the complainant. There are blank challans found in the register of the Municipal Council. The present applicant was relieved from his services from 20 March 2025, admittedly, he still has signed documents on 24 March 2025, which he could have avoided. Therefore, I am of the view that there is no merits in the present pre-arrest bail application. As regards the authority referred by the learned APP recently passed by the Supreme Court in *Devinder Kumar Bansal vs. The State of Punjab [passed in SLP (Cri.) No.3247/2025]*. In paragraph Nos. 23 and 24 the Supreme Court has held as under :

“23. The presumption of innocence, by itself, cannot be the sole consideration for grant of anticipatory bail. The presumption of innocence is one of the considerations, which the court should keep

in mind while considering the plea for anticipatory bail. The salutary rule is to balance the cause of the accused and the cause of public justice. Over solicitous homage to the accused's liberty can, sometimes, defeat the cause of public justice.

24. If liberty is to be denied to an accused to ensure corruption free society, then the courts should not hesitate in denying such liberty. Where overwhelming considerations in the nature aforesaid require denial of anticipatory bail, it has to be denied. It is altogether a different thing to say that once the investigation is over and charge-sheet is filed, the court may consider to grant regular bail to a public servant –accused of indulging in corruption.”

14.1. These findings are applicable directly to the present proceedings.

15. In view of the above, I am convinced that protection need not be granted to the present applicant. Hence, **anticipatory bail application stands rejected.**

(RAJESH S. PATIL, J.)