

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.540 OF 2024

Manish Sanjay Chawan	...Applicant
<i>Versus</i>	
The State of Maharashtra & Anr.	...Respondents

Mr. Chaitanya M. Bagul, Amicus Curiae, for the Applicant.
Mr. A. R. Metkari, APP, for the Respondent-State.
Mr. Shekhar Jagtap i/b. J. Shekhar Associates, for the Respondent No.2.

CORAM: MADHAV J. JAMDAR, J.
DATED : 16th OCTOBER 2025

PC:-

1. This application is filed under Section 438 of the Code of Criminal Procedure, 1973 seeking pre-arrest bail in connection with C.R. No.284 of 2022 registered with Warje-Malwadi Police Station, Pune City, Pune, for the offences punishable under Sections 406 and 420 of the Indian Penal Code, 1860.

2. The prosecution case is set out in paragraph No.2 of the order dated 5th January 2024 passed by the learned Additional Sessions Judge, Pune in Criminal Bail Application No.6755 of 2023

filed by the present Applicant, by which the said application has been rejected. The said paragraph No.2, reads as under:

“2. Fact of prosecution case is that, on 26/7/2022 as per the report of Rupesh Shashte crime in question registered. Sum and substance of FIR is that in between period from 6/7/2019 to 23/10/2019 accused involved in the crime dishonestly induced to invest and deliver amount to the tune of Rs.15,36,000/- by way of different transactions with assurance of good returns, but inspite of acceptance of invested amount no return received to him from accused involved in the crime and thereby accused cheated to him, coupled with breach of trust and by doing so, offence in question committed by accused involved in the crime.”

3. As none was appearing for the Applicant on various dates, this Court by order dated 6th October 2025 has appointed Mr. Chaitanya Bagul, learned Counsel as Amicus Curiae to represent the interest of the Applicant.

4. Mr. Bagul, learned Counsel submitted that there is delay of about 2 years and 9 months in filing the FIR, certain amounts received by the First Informant are not disclosed and Rs.3,00,000/- have been deposited in this Court. He therefore, submitted that the Applicant is entitled for anticipatory bail.

5. Mr. Metkari, learned APP raised several contentions including that the Applicant is absconding. However, Mr. Bagul, learned Counsel submitted that there is no material on record to show that notice under Section 41A of the Code of Criminal Procedure, 1973 has been issued to the Applicant.

6. As the learned APP submitted that the Applicant is absconding, on 8th October 2025, this Court has directed the Applicant to attend the Warje-Malwadi Police Station, Pune, on 13th October 2025 and 14th October 2025 between 11:00 a.m. to 02:00 p.m.

7. Mr. Metkari, learned APP states that the Applicant has not attended the Warje-Malwadi Police Station on 13th October 2025 and 14th October 2025. He submits that the Applicant is absconding. To support the same, learned APP points out the entries made in the station diary recording that the police personnel have visited the residence of the Applicant, however, he was not found.

8. Mr. Metkari, learned APP submits that steps will be taken to declare the Applicant as proclaimed offender.

9. The Supreme Court in the decision of *Lavesh v. State (NCT of Delhi)*¹, has *inter alia* held that normally when the Accused is “absconding” and declared as a “proclaimed offender”, there is no question of granting anticipatory bail. It has been reiterated that when a person against whom a warrant had been issued and is absconding or concealing himself in order to avoid execution of warrant and declared as a proclaimed offender in terms of Section 82 of the Code of Criminal Procedure, 1973 he is not entitled to the relief of anticipatory bail.

10. The Supreme Court in the decision of *Nikita Jagganath Shetty vs. State of Maharashtra*², has observed that anticipatory bail is an exceptional remedy and ought not to be granted in a routine manner. There must exist strong reasons for extending indulgence of this extraordinary remedy to a person accused of grave offences.

1 (2012) 8 SCC 730

2 2025 SCC OnLine SC 1489

11. As the Applicant is not available for the investigation, the Anticipatory Bail Application is dismissed.

12. This Court places on record the appreciation of assistance rendered by Mr. Chaitanya M. Bagul, learned Counsel appointed to represent the interest of the Applicant.

13. The High Court Legal Services Committee, Mumbai is requested to pay the professional charges of Mr. Chaitanya M. Bagul, learned Counsel, as per rules.

[MADHAV J. JAMDAR, J.]

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