AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.661 OF 2024

Nitin Sanjay Jage … Applicant
V/s.
The State of Maharashtra & Anr. … Respondents

Mr. Bhushan Walimbe with Mr. Mayank Tripathi for the applicant.

Mrs. Rajashtree V. Newton, APP for respondent No.1-State.

Ms. Archana Kudale, API, Panvel Taluka Police Station, is present.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 25, 2025

P.C.:

1. The applicant, apprehending arrest in connection with Crime Register No. 205 of 2023 registered with Navin Panvel Police Station for offences punishable under Sections 406, 420, 427, 504, 506 read with Section 34 of the Indian Penal Code, 1860, has approached this Court under Section 438 of the Code of Criminal Procedure, 1973 seeking pre-arrest bail.

2. As per prosecution, the applicant and the complainant shared cordial relations for a considerable period. The applicant is engaged in the business of purchase and sale of land and was running his office near the residence of the complainant for about two years. In 2021, the applicant informed the complainant about his business activities. The applicant also knew that the complainant had received a substantial sum after the sale of her father's land. He suggested that the complainant invest in a business of "lal soil". However, the complainant's father declined, citing lack of experience. Thereafter, the applicant created interest in the mind of the complainant by repeatedly speaking about land deals and profits. He requested the complainant to give her land on rent for his business, but she refused. The applicant then showed her a land parcel at Kharwandi, Taluka Karjat, District Raigad and persuaded her to transfer money into his account, assuring that if earlier deals had failed, this investment would be secure and recoverable with his help. Believing him, the complainant transferred money from her bank account at Khalapur. Even though promised dignitaries like Mr. Ajit Pawar did not attend the inauguration, the applicant commenced business operations.

3. The applicant further gained trust of the complainant and her family by appointing her niece in his office and employing her nephews as drivers. He assured that he would transfer lands bearing Nos. 4/35/1, 6/1, 6/2 at Mauje Goulwadi, Karjat, District Raigad and executed an agreement dated 2 May 2022. Though the applicant's name was shown as a witness in the agreement, he did not sign it. To complete the deal, the complainant transferred amounts from 7 April 2022 till September 2022 totaling Rs. 56 lakh through RTGS and Rs. 12 lakh in cash to the applicant and his wife. Despite lapse of seven to eight months, the applicant neither executed the promised transfer nor met the complainant.

4. When confronted, the applicant disclosed that on 12 May 2022 he had purchased land at Moja Kherwadi, Taluka Karjat, District Raigad in his own name. It later came to light that the said purchase was made using funds transferred by the complainant, without her knowledge.

5. As the complainant began demanding return of her money, the applicant refused. He allegedly threatened her with dire consequences if she approached police and used filthy language against her. Since a huge amount was at stake, the complainant avoided immediate complaint and repeatedly requested refund. Later, the applicant agreed to transfer five plots out of nine at Mauje Kharwandi in her name. The complainant issued a legal notice dated 7 June 2023 through her advocate, but the same was cancelled when the applicant met her and her brother. On 14 June 2023, though the complainant was called to remain present, she was deceived once again. A subsequent notice dated 17 June 2023 was not accepted by the applicant. Even the notice sent by email remained unanswered. Ultimately, the complainant lodged FIR on 20 June 2023.

6. Learned counsel for the applicant submitted that the Investigating Officer had already instructed the Revenue Authorities not to permit transfer of applicant's plots. Therefore, as recorded by this Court in interim order dated 11 March 2024, the applicant was unable to refund the complainant's money. He argued that the dispute is purely of civil nature and that ingredients of cheating under Section 420 IPC are not satisfied. On these grounds, he prayed that the applicant be granted protection from arrest.

7. On the other hand, learned APP opposed the application. She pointed out that the applicant was granted interim protection earlier only on his assurance that he would refund Rs. 64 lakh with reasonable interest. However, even after more than one and a half years, no repayment has been made. Referring to the FIR, she contended that the applicant was not the owner of the property mentioned in the Memorandum of Understanding, yet he accepted Rs. 64 lakh by bank transfers on the promise of transferring that property. Once it is admitted that he was not the owner, it shows dishonest intention at the inception of the deal. Furthermore, in order to cover up, the applicant agreed to transfer five other plots to the complainant and she even issued a public notice in relation to those plots. Still, the applicant failed to execute any transfer. He had even called upon the complainant to attend the Sub-Registrar's office on 14 June 2023 for execution of sale deeds but failed to remain present himself. Learned APP submitted that in these circumstances custodial interrogation of the applicant is necessary to trace recovery of the huge amount and therefore the application for anticipatory bail deserves rejection.

8. I have carefully considered the rival submissions and perused the material placed on record. The allegations in the FIR are specific and supported by the narration of transactions, including dates and amounts transferred by the complainant. The documents indicate that the complainant transferred a total of Rs. 64 lakh to the applicant through RTGS and cash payments on his assurance of sale of certain lands.

9. It is an admitted position that the applicant was not the owner of the property referred to in the Memorandum of Understanding. In spite of that, he induced the complainant to part with huge amounts. Even after more than one and a half years, the applicant has not refunded any part of the said amount. On the contrary, he allegedly purchased land in his own name from the funds given by the complainant. This conduct prima facie shows dishonest intention right from the inception of the transaction.

10. The plea of the applicant that the dispute is civil in nature cannot be accepted at this stage. It is well settled that mere existence of civil remedy does not bar criminal prosecution where ingredients of criminal offences are satisfied. In the present case, the material on record discloses offences under Sections 420 IPC. The fact that the applicant repeatedly avoided execution of sale deed, despite making the complainant issue public notice, and failed to appear before the Sub-Registrar’s office on the date fixed, further strengthens the prosecution case.

11. It is also relevant that the applicant was granted interim protection earlier on his own assurance of refunding Rs. 64 lakh with interest. However, he has not honored that assurance till date. This shows lack of bona fides. The argument that the plots are under restraint due to directions of the Investigating Officer also cannot justify non-refund of money, since refund could have been arranged through other means if intention was genuine.

12. The allegations of threats and abuse to the complainant when she demanded her money back further aggravate the matter.

The applicant's custodial interrogation appears necessary not only for effective investigation but also for recovery of the cheated amount.

13. In these circumstances, this Court is of the opinion that no case is made out for grant of anticipatory bail. The allegations are grave, the amount involved is huge, and the conduct of the applicant shows deliberate deceit.

14. Accordingly, the application for anticipatory bail stands rejected.

(AMIT BORKAR, J.)