

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

ANTICIPATORY BAIL APPLICATION NO. 1098 OF 2024

Prafull Dayanand Waghmare
V/s.

...Applicant

1. The State of Maharashtra

2. Charlotte Rafael Shirsat

...Respondents.

Mr. Gaurav Bhavnani, for the Applicant.

Ms. G. P. Mulekar, APP for the Respondent/State.

CORAM : N.R. BORKAR, J.
DATE : 22.01.2025.

P.C. :

1. This is an application for anticipatory bail.

2. This Court on 22.04.2024 had passed the following order :

1. Leave to amend to correct the cause title. Amendment to be carried out forthwith to describe the informant as the Respondent No.2.

2. The Applicant is seeking anticipatory bail in connection with C.R.No.157/2024, dated 19/02/2024, registered with Wanvadi Police Station, Pune City, under sections 406, 420, 468, 120-B r/w 34 of the Indian Penal Code and under section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999.

3. Heard Mr. Gaurav Bhawnani, learned counsel for the Applicant and Ms. Mahalakshmi Ganapathy, learned APP for the State.

4. The allegations are that the informant and her husband got acquainted with the Applicant's wife and the Applicant in the year 2015 at the airport when the informant and her husband had gone to receive her granddaughter. At that time, the

Applicant told them that he was dealing in share market trading and he was in a position to give good returns if the informant and her husband's shares were permitted to be used by the Applicant. The allegations in the FIR are that the Applicant suggested to them to open separate DMAT account in ICICI bank. The Applicant himself transacted in those shares personally in that particular account which belonged to the informant and her husband. The allegations are that the informant had suffered loss to the tune of Rs.1,23,46,987/-.

5. Learned counsel for the Applicant submitted that the DMAT account belonging to the informant and her husband was in their name. Therefore, it was not possible for the third party like the present Applicant to make any transaction without written permission from the informant and her husband or even through the OTP which only the informant and her husband could receive.

6. Learned APP submitted that considering this statement, it is necessary to hear the first informant. She further submitted that the Applicant has given statement before the police. She submitted that the Applicant has explained how he had used that particular account. She opposed these submissions. She further submitted that in his statement dated 21/01/2024 recorded during preliminary enquiry, the Applicant had shown willingness to make refund of Rs.98 lakhs. Learned counsel for the Applicant submitted that he needs some reasonable time to respond to this statement.

7. Considering all this situation, today the Applicant can be protected by way of ad-interim relief. It is necessary to hear the informant on this particular aspect.

8. Hence, the following order :

O R D E R

(I) In the event of his arrest in connection with C.R.No.157/2024, dated 19/02/2024, registered with Wanvadi Police Station, Pune City, till the next date,

the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

(ii) The Applicant shall attend the concerned Police Station as and when called and shall cooperate with the investigation.

(iii) This order shall operate till 19/06/2024.

(iv) Stand over to 19/06/2024.”

3. I have perused the statement of present applicant dated 21.01.2024, referred to in Paragraph No.6 of the above order. The applicant in the said statement has stated that he would refund the amount of Rs.98,00,000/- to the complainant. Even after one year, the applicant has not taken any steps to pay the said amount. Though on 22.4.2024 itself the time was sought to respond to the said statement, the learned counsel for the applicant submits that he needs further time to respond to the said statement. Considering the overall facts and circumstances, I am not inclined to entertain this application. The Application is rejected. The interim order dated 22.04.2024 stands vacated.

[N.R.BORKAR, J.]