

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CR. ANTICIPATORY BAIL APPLICATION NO. 2105 OF 2024

Bhushan Kamalakar Bhoir

...Applicant

Versus

The Sr. Police Inspector And Anr.

...Respondents

Mr. Sudeep Pasbola, Senior Advocate, a/w Rajan Gurnani, Divya Singh i/b. Mr. Mateen Shaikh for the Applicant.

Mr. Niranjana Mundargi a/w Mangesh M. Deshmukh and Ahire Shaailesh M. for the Intervenor/First Informant.

Mr. Gautam T. Kanchanpurkar a/w Priya A. Patil for Intervenor.

Ms. Supriya Kak, APP for the State.

Mr. Dinkar Kadam, API, EOW GCZ.

CORAM : ADVAIT M. SETHNA, J.

DATE : 6 OCTOBER 2025

P.C.:

1. The Applicant has preferred this Application as he apprehends arrest. The proceedings relate to Crime No.0411 of 2024. The FIR has been lodged on 29 May 2024 at 15.36 hours by the Bhandup Police Station, Mumbai. The alleged offences are under Sections 120-B, 188, 406, 420, 409 and 452 r/w 34 of the Indian Penal Code (for short "IPC").

2. Briefly, the case of the prosecution as per the FIR is that the complainant, who is the Applicant's paternal uncle, lodged an FIR in Bhandup Police Station alleging that the Applicant had withdrawn a long-pending civil suit (since 1982) without informing the family. The Applicant, who was granted Power of Attorney in 2002 and later became a

lawyer, has misused the said POA, inter alia, by selling a share in the said underlying property to cheat and defraud the Informant. It is pursuant to such complaint that the FIR is registered.

3. Heard the learned counsel for the parties and with their assistance, the Court has perused the record. At the very outset, the parties have drawn the Court's attention to an order dated 30 July 2024 whereby the Applicant was granted interim protection by this Court. This was continued by subsequent orders from time to time. Having heard the learned counsel for the parties, in the given factual complexion, it is both pertinent and necessary to refer to the order dated 28 April 2025 passed by this Court which reads thus :-

- "1. Mr. Pasbola, learned senior counsel for the applicant on instructions of the applicant who is present in the Court, submits that the respondents along with other plaintiffs have filed Notice of Motion Nos.4509/2017, 6268/2024 and 6228/2024 for restoration of Suit No.4948/1981 filed in the City Civil Court, Mumbai. He submits that his client will be giving no objection for allowing the Notice of Motion No.4509/2017, and thereafter the Suit No. 4948/1981 can be heard on merits. He further submits that the entire documents which were withdrawn by the present applicant which were part of the documents of Suit No. 4948/1981 would be submitted back in the said Suit, within a period of two weeks from today. He further submits that the Court fees which was paid in the Suit No. 4948/1981 has not been withdrawn though the Suit was withdrawn. The submissions made by Mr. Pasbola, learned senior counsel on instructions of the applicant, are accepted as undertaking given to this Court.*
- 2. The learned APP submits that considering the statements made by the senior counsel Mr. Pasbola on instructions of his client, the custody of the present applicant would not be necessary, if the applicant complies with the undertaking as given to this Court.*
- 3. Considering the submissions made by the senior counsel for the applicant on instructions of the applicant and the learned APP, I am convinced that as of today, the interim protection can be granted to the present applicant.*

4. *Stand over to 8 May 2025, matter to come under the caption “for compliance.”*
5. *Parties to take steps as noted above.*
6. *No coercive steps be taken against the present applicant till the next date of hearing.”*

4. Mr. Pasbola, learned Senior Counsel for the Applicant would now submit that the undertakings recorded in the order dated 28 April 2025 on the part of the Applicant have now been duly complied with. He would submit that pursuant to such order dated 28 April 2025 a notice of motion has been moved for restoration of the said suit which is pending in this Court. Such factual position is not opposed by Mr. Mundargi and Mr. Kanchanpurkar, learned counsel appearing for the Informant/Intervenor. The fulcrum of the disputes relates to power of attorney dated 13 April 2002 by virtue of which the allegations are that certain amounts were illegally transferred to the account of the Applicant and his mother. However, the record and the order dated 28 April 2025 would *prima facie* indicate that such dispute would also be a subject matter of the said suit which is now to be restored, for which a notice of motion is pending.

5. At this juncture, the learned APP Ms. Kak submits that the Applicant is not co-operating with the investigation. A notice under Section 41 A of Code of Criminal Procedure, 1973 is issued in March/April 2024 to the Applicant. Despite that he has not made himself available for the investigation and has attended the Police Station only once. According to her, the Applicant has not appeared before the EOW though the

investigation is now transferred to the EOW and the EOW is seized of the matter. To this, Mr. Pasbola, learned Senior Counsel for the Applicant has referred to extracts of certain documents/entries from the Police record/register to indicate that the accused has attended not just before the concerned Police Station but also before the EOW. Such document/records have also been shown to the learned APP across the bar.

6. Be that as it may, it is imperative for the Applicant to co-operate with the investigation and make himself available whenever required for the purposes of facilitating the investigation. The Applicant has reiterated his undertaking that he shall fully co-operate with the investigation and also the terms and conditions which this Court may impose in the given facts and circumstances. In my *prima facie* opinion, the dispute in the proceedings has all traps of civil nature in as much as the subject matter of the dispute is very much a subject matter of pending suit before this Court in respect of which a notice of motion for restoration is filed and is pending, pursuant to the orders of this Court dated 28 April 2025.

7. Though Mr. Mundargi and Mr. Kanchanpurkar have opposed this application, however, it appears that in the given factual complexion, it would not be in the fitness of things to take the clock back. This is particularly after the order dated 28 April 2025, pursuant to which the Applicant has complied with the undertakings recorded in the said order.

8. The Applicant has undertaken to this Court that he shall fully co-

operate with the investigation more particularly with regard to making himself available to the Investigating Officer/EOW as and when called/required.

9. Mr. Mundargi, learned counsel at this stage in the peculiar facts of the case would request that though there is an order dated 28 April 2025, the Applicant should not delay the Notice of Motion filed for restoring the said suit. Mr. Pasbola, learned Senior Counsel for the Applicant fairly assures the Court that even though the Applicant is not a party, the Applicant would not delay and/or create any hurdle in this regard.

10. Considering that there are no aggravating factors against the Applicant, which would justify his detention, in the given factual complexion, a *prima facie* case for grant of anticipatory bail has been made out by the Applicant. Further, in the given facts, custodial interrogation of the Applicant, for the reasons recorded above, is not warranted.

11. In light of the above, in my view, the following order would meet the ends of justice:-

ORDER

- (i) Interim order dated 30 July 2024 is confirmed.
- (ii) In the event of arrest of the Applicant in connection with CR No.0411 of 2024 registered with Bhandup Police Station, for the offences punishable under Sections 120-B, 188, 406, 420, 409 and 452 of the Indian Penal Code, 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 more sureties in the like amount.

- (iii) The Applicant shall cooperate with the investigation and shall attend the concerned police station on every second and fourth Saturday at 11.30 am until filing of the charge-sheet.
- (iv) The Applicant shall furnish details of residential address and other contact details such as mobile number etc. to the concerned police station. If there is any change in the contact details, the same shall be immediately intimated to the concerned police station.
- (v) The Applicants shall obtain order of competent Court before leaving State of Maharashtra.
- (vi) The Applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the police officer.
- (vii) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the complainant or any witness in any manner whatsoever.

12. Needless to mention that the observations made above are *prima facie* for the purposes of adjudicating this Application.
13. The Anticipatory Bail Application is **Allowed/Disposed Of** in the above terms.

[ADVAIT M. SETHNA, J.]