IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2879 OF 2024

ABDUL KHALID HALIM KHAN ..APPLICANT
VS.
STATE OF MAHARASHTRA & ANR. ..RESPONDENTS

Mr. Khwaja Shaikh a/w. Mr. Ilyas Shaikh for the applicant.
Mr. Ajay S. Patil, APP for respondent no.1-State.
None for respondent no.2.
API Amol Ramesh Naik, Bhandup Police Station.

CORAM : RAJESH S. PATIL, J.

DATE : JANUARY 29, 2025.

P.C. :

1. The learned counsel for respondent no.2 is not present in the Court when the matter was called out.

2. Heard learned counsel for the applicant and learned APP for the respondent no.1 – State.

3. The Applicant is seeking anticipatory bail in connection with First Information Report (FIR) No. 561 of 2024 registered at Bhandup Police Station, District Brihanmumbai Shahar under sections 406, 420, 506 of the Indian Penal Code.

4. The learned counsel for the applicant submits that the applicant is the owner of a gala and has executed a leave and license agreement dated 26th August 2022, for a term commencing on 1st October 2022 and ending on 30th September 2027. The applicant had taken a deposit of Rs.14 lakhs for the said gala. However, the informant paid only Rs.13,79,000/-. The applicant further submits that no monthly compensation or license fee was payable for occupying and using the gala, as he had received a 'heavy deposit'. However, the applicant later realized that the deposit amount specified in the agreement was not Rs.14 lakhs, but Rs.25 lakhs.

5. The learned APP has shown me a copy of the leave and license agreement dated 26th August 2022. Upon reviewing the document, on page 2, paragraph 2, the deposit amount is stated as Rs.14 lakhs, and the rent payable is shown as Rs.1000/- per month. Therefore, the submission made by the learned counsel for the applicant appear to be incorrect, contrary to the document on record. The learned APP further states that, in addition to the present informant, the applicant has cheated three more individuals in the similar manner. The applicant's strategy seems to be to accept a large deposit amount and then not to give possession of the gala to the licensee. During the interregnum, he uses the deposit amount for his own purpose, after which he either returns a partial amount or sometimes the full amount. The learned APP submits that, based on the applicant's past conduct, the I.O. has discovered that the applicant has defrauded individuals to the tune of Rs.40 lakhs. Therefore, the applicant's custody is required to further investigate and determine how many more individuals he has cheated, in the similar fashion as that of the informant.

6. Taking into consideration the overall contents of the FIR and the documents presented to me, I am satisfied that the applicant has a *modus operandi* of taking money from licensees, using their funds, and subsequently refunding only a part of it or the principal amount. The custodial interrogation of the applicant/accused is necessary in order to find out how many more persons are victim of applicant's alleged act. Therefore, no case has been made out to grant anticipatory bail to the applicant.

7. The application is hereby rejected and disposed of accordingly.

(RAJESH S. PATIL, J.)

Signed by: Diksha Rane
Designation: PS To Honourable Judge
Date: 29/01/2025 19:37:47