IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Anticipatory Bail Application No. 3216 of 2024

Jitendrabahadur Shyamraj Yadav
Aged 32 years, adult, Indian
Inhabitant, resident of A-803,
Vimal Residency, Virar Link Road,
Nalasopara (West), Dist. Palghar,
Maharashtra – 401 203. … Applicant

versus

1. The State of Maharashtra
through Inspector in charge,
Samata Nagar Police Station,
to be served through Public
Prosecutor, High Court, Bombay

2. Dr Shrikant Bhiva Sarvagod
Row House No.2, Opp. Shivalaya
Tower, 90 Feet Road, Thakur Complex,
Kandivali (E), Mumbai – 400 101. …Respondents

Mr Atul Pandey, for the applicant.
Mr SS Pednekar, APP, for respondent No.1 / State.
Dr Rajiv Basant Chaudhary, for respondent No.2/ Informant.
API Raju Chaudhary, Samata Nagar Police Station, Mumbai.

Coram : R.N. Laddha, J.
Date : 23 July 2025

P.C.:

By this application, the applicant seeks pre-arrest bail in connection with CR No.592 of 2024, registered at Samta Nagar Police Station, Mumbai, for offences punishable under Sections 344, 340, 338, 336(3), 336(2), 318(4) and 316(4) of the Bharatiya Nyaya Sanhita, 2023.

2. It is the case of the prosecution that between January 2023 and July 2024, the applicant, who served as a Pharmacist for respondent No.2's medical store, was responsible for purchasing and selling medications as well as managing the store. During this time, he is accused of defrauding the informant by manipulating and deleting medicine invoices and redirecting customer payments for medical bills into his personal HDFC Bank G-PAY account rather than depositing them into the company's account.

3. Mr Atul Pandey, the learned Counsel appearing on behalf of the applicant, asserting the applicant's innocence, submits that there is a delay in lodging the FIR, and the informant has given a criminal colour to a civil dispute. He contends that the applicant's father was ill, and when the applicant requested that the informant sanction leave, he refused. Thus, the applicant resigned and returned to his native place to care for his ailing father. According to the learned Counsel, the FIR is a retaliatory action as the applicant opposed the informant's sale of prohibited medicine in the store. Furthermore, the learned

Counsel submits that the applicant has been falsely implicated in the crime, and is ready to abide by any conditions this Court imposes if granted bail.

4. Mr SS Pednekar, the learned Additional Public Prosecutor representing respondent No.1/ State, and Dr Rajiv Chaudhary, the learned Counsel appearing for respondent No.2/ informant, jointly oppose the applicant's request for pre-arrest bail and submit that the offence is of a serious nature. On 7 July 2024, the fraud committed by the applicant was exposed when Kalyani, a pharmacist, alerted the informant about a customer returning medicines valued at Rs.1,930/- that had been purchased on 14 May 2024, under Bill No.2844-F. Kalyani accepted the returned items and proceeded to refund the customer. However, upon reviewing the bill in the computer system, she found that it only accounted for a water bottle priced at Rs.10/- and that the applicant had signed the invoice. Recognising that something was amiss, the informant initiated an audit of the store. The audit revealed that the applicant had manipulated and deleted invoices, accepted payments for medicines directly into his account, and ultimately defrauded the informant of Rs.13,89,768/-. When confronted with these discrepancies, the applicant resigned and disappeared. Furthermore, the learned APP submits that despite giving a

notice under Section 35(3) of the Bharatiya Nagrik Suraksha Sanhita, 2023, the applicant did not appear before the investigating officer. The investigation is in progress, and the applicant's custody is necessary to ascertain the money trail and identify the persons involved in the crime. If the applicant is granted bail, he may tamper with the evidence or influence witnesses.

5. This Court has given anxious consideration to the rival contentions and perused the records.

6. It is a settled position in law that the power to grant anticipatory bail is extraordinary and must be used with caution and discretion, based on the specific facts of each case. Unlike regular bail, it cannot be treated as a general rule. Courts must avoid a one-size-fits-all approach, as granting such pre-arrest bail in serious cases may affect the investigation. These aspects are also highlighted in the decision of the Hon'ble Supreme Court in *Srikant Upadhyay & Ors. Vs State of Bihar & Anr., 2024 SCC OnLine SC 282.*

7. The applicant stands accused of tampering with and deleting invoices, accepting funds for the sale of medicines in his personal bank account, and misappropriating an amount of Rs.13,89,768/-. A perusal of the records reveals that while the

original bills signed by the applicant showed a certain amount, a lower sum was entered into the computer system. Further, the applicant accepted the sale proceeds of the medicines directly into his account. The statements of witnesses indicate that the applicant urged the customers to make payments into his account. *Prima facie,* there is sufficient material on record to demonstrate the applicant's involvement in the crime. Notably, despite the issuance of a notice under Section 35(3) of the Bharatiya Nagrik Suraksha Sanhita, 2023, the applicant failed to attend the concerned police station. Additionally, the alleged crime was reported on 5 August 2024, and the applicant approached the Sessions Court, Mumbai, seeking pre-arrest bail on 23 August 2024. The Sessions Court refused this request on 16 October 2024. Thereafter, the applicant approached this Court by way of the present application on 22 November 2024. During the intervening period, the applicant remained untraceable and failed to extend any cooperation to the investigating agency, thereby impeding the progress of the investigation. The applicant's conduct demonstrates a deliberate attempt to evade the due process of law and undermines his claim for discretionary relief. The investigation is ongoing, and the applicant's custody is deemed necessary to trace the money trail and uncover the entire extent of the fraud. Releasing the applicant at this preliminary juncture would hinder the course of an effective investigation.

8. In the circumstances, this Court is not inclined to exercise its discretion in favour of the applicant. As a result, the application stands rejected.

(R.N. Laddha, J.)