AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.3260 OF 2024

Suryakant Prabhakar Golapkar ... Applicant
V/s.
The State of Maharashtra ... Respondent

WITH
INTERIM APPLICATION NO.5102 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO.3260 OF 2024

GIC Housing Finance Co.Ltd., through
Praful Rajabhau Dhoke ... Applicant
In the matter between
Suryakant Prabhakar Golapkar ... Applicant
V/s.
The State of Maharashtra ... Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO.3261 OF 2024

Preeti Suryakant Golapkar ... Applicant
V/s.
The State of Maharashtra ... Respondent

WITH
INTERIM APPLICATION NO.5103 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO.3261 OF 2024

GIC Housing Finance Co.Ltd., through
Praful Rajabhau Dhoke ... Applicant
In the matter between
Preeti Suryakant Golapkar ... Applicant
V/s.
The State of Maharashtra ... Respondent

Mr. Nilesh Bagade, for the Applicant.

Mr. Yogesh More, for Intervenor.

Mrs. Shilpa K. Gajare, APP for State.

Mr. S.V. Pawar, API, Khandeshwar Police Station, is present.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 16, 2025

P.C.:

1. Both anticipatory bail applications arise from the same First Information Report and the allegations against both applicants are identical. Hence, both applications are being decided by this common order.

2. The applicants apprehend arrest in connection with Crime Register No. 0209 of 2023 registered at Khandeshwar Police Station for offences punishable under Sections 409, 420, and 34 of the Indian Penal Code, 1860. They seek pre-arrest protection under Section 438 of the Code of Criminal Procedure, 1973.

3. As per the prosecution, the complainant, GIC Housing Finance Limited, is a company registered under the National Housing Bank and engaged in providing housing finance to individuals for purchase of residential properties. According to the complainant, the accused obtained housing loans to purchase CIDCO flats. After paying initial installments, the borrowers stopped paying EMIs. On inquiry, it was revealed that the accused had misused the loan amount by encashing disbursement cheques and using the funds to purchase flats for persons other than the approved borrowers, by creating false and fabricated documents.

The complainant alleges that this resulted in a loss of Rs.84,28,562/-.

4. The learned Advocate for the applicants submitted that the applicants are falsely implicated. They are lawful owners of Flat No.1302 allotted by CIDCO. Through accused No.1, they had obtained a housing loan of Rs.23,08,957/- from the complainant for purchasing the said flat and making payment to CIDCO. The applicants were regularly paying EMIs but defaulted during the Covid-19 pandemic. The loan was disbursed in 2017, whereas the FIR came to be lodged on 1 August 2023. It is contended that the dispute is of a civil nature concerning alleged misuse of loan funds. The applicants are ready to cooperate with the investigation and seek protection from arrest.

5. On the other hand, the learned APP and the learned Advocate for the informant opposed the applications. They submitted that the loan amount was sanctioned for purchasing a CIDCO flat and a cheque was issued in the applicant's name with specific instructions that it must be encashed only towards the purchase of the CIDCO flat. However, the cheque was handed over to accused Nos.1 and 2 who, in collusion with other accused, diverted the amount to purchase another flat that was never financed by the complainant company. It is alleged that the accused, in connivance with certain CIDCO officials, operated a larger fraudulent scheme. When the borrowers defaulted, the company's representatives inspected the premises and found it occupied by strangers, not by the sanctioned borrowers. The informant submits that this clearly shows dishonest intention and misuse of loan funds in breach of the specific instructions issued at the time of disbursement. Hence, both applications deserve to be rejected.

6. Having considered the rival submissions and the material placed on record, the Court finds no case for grant of pre-arrest protection. The reasons are as follows.

7. The allegations in the First Information Report disclose a well-planned act of cheating and criminal breach of trust involving diversion of loan funds meant for purchase of CIDCO flats. The loan disbursement was made with a specific condition that the cheque was to be encashed only towards payment for the identified CIDCO flat. However, the investigation prima facie reveals that the cheque was misused, and the amount was diverted for purchasing a different property not sanctioned by the complainant company.

8. The material collected so far indicates that the applicants, in collusion with other co-accused, facilitated the said diversion of funds by creating false and fabricated documents. Such acts, if established, amount to breach of trust by an agent and cheating under Sections 409 and 420 of the Indian Penal Code. These offences are of serious nature involving financial fraud upon a housing finance institution, which deals with public funds.

9. The contention of the applicants that they are regular borrowers and that the dispute is of civil nature cannot be accepted at this stage. The nature of allegations, the use of forged documents, and the manner of diversion of funds indicate a fraudulent intention from inception. The existence of a contractual relationship between the borrower and the lender does not convert a criminal act of deception into a civil dispute when dishonest intention is apparent.

10. The contention that the loan was sanctioned in 2017 and the FIR was registered in 2023 also does not by itself create a ground for anticipatory bail. Financial irregularities and forgery often surface upon detailed audit or inspection. The delay, therefore, cannot be treated as a mitigating factor when the material indicates deliberate misuse of loan proceeds.

11. The role attributed to the applicants is identical to that of other principal accused. The investigation is at a crucial stage, and custodial interrogation appears necessary to trace the money trail, identify forged documents, and ascertain involvement of other persons, including possible collusion with public officials. Grant of anticipatory bail at this stage would hamper fair investigation.

12. The gravity of the offence, the organized nature of the fraud, and the possible involvement of several parties justify denial of pre-arrest protection. The applicants' mere assurance to cooperate cannot substitute effective investigation where custodial interrogation may yield crucial evidence.

13. Considering the overall facts, the allegations disclose a clear prima facie case of criminal breach of trust and cheating. The offence affects not only the complainant company but also undermines public confidence in the integrity of financial transactions.

14. Hence, in view of the seriousness of the allegations, the role of the applicants, and the necessity of custodial interrogation, this Court is not inclined to exercise discretion under Section 438 of the Code of Criminal Procedure.

15. Both anticipatory bail applications are, therefore, rejected.

16. In view of this, all pending interim applications stand disposed of.

(AMIT BORKAR, J.)