IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Anticipatory Bail Application No.3453 of 2024

Sharad Vitthal Khanvilkar
Age 46 years, R/at: 3/1,
Bapurao Saval Chawl, Shiv
Tekadi, Jogeshwari East,
Mumbai – 400 060 … Applicant

versus

The State of Maharashtra
(Through Sr. P.I. Thane Nagar
Police Station, Dist. Thane) …Respondent

Ms Saili Dhuru a/w Ms Sampada S Patil, for the applicant.
Mr M G Patil, APP, for the respondent/ State.
PSI Deepak S Dummalwad, Thane Nagar Police Station, Thane.

Coram: R.N. Laddha, J.
Date: 27 June 2025

P.C.:

By this application, the applicant seeks pre-arrest bail in connection with CR No.271 of 2023, registered at Thane Nagar Police Station, Thane, for offences punishable under Sections 406 and 420 read with 34 of the Indian Penal Code.

2. The prosecution alleges that in May 2021, the applicant, brother-in-law of the informant, pretended to be a Mantralaya

official and lured the informant to secure her son a job in the Thane Municipal Corporation by demanding Rs.9,60,000/-. Accordingly, on 6 June 2021, the informant gave him Rs.1,50,000/- in cash. Four days later, he also collected Rs.35,000/- from the informant's son at Dadar Railway Station, again assuring them the job was secured. Over time, the applicant continued to demand money, eventually receiving a total of Rs.9,60,000/- through cash and bank transfers to unknown accounts, all under false pretences. Despite repeated assurances, he failed to deliver on his promise. Upon inquiry, the informant discovered the applicant never worked at Mantralaya, a fact her sister, the co-accused, had concealed. When confronted at their residence in Virar, the applicant promised to return the money within two to three months but later absconded without repaying.

3. Ms Saili Dhuru, the learned Counsel appearing on behalf of the applicant, asserts the applicant's innocence and submits that the allegations levelled against the applicant are entirely unfounded. She points out that the applicant and the informant are related, and that the present FIR is filed with *malafide* intent, arising out of a pre-existing and ongoing family dispute. The learned Counsel contends that the financial transaction in question does not involve the applicant in any manner, neither

has any sum been transferred to the applicant's account, nor has the applicant derived any benefit therefrom. She further submits that there is a delay in lodging the FIR, and the co-accused has already been arrested and granted bail. The applicant is ready to abide by any condition imposed by this Court if released on bail.

4. Mr MG Patil, the learned Additional Public Prosecutor representing the respondent/ State, opposes the applicant's request and contends that the applicant orchestrated a scheme whereby he instructed the informant to transfer funds into various bank accounts held by the applicant's acquaintances. To facilitate this, the applicant misrepresented to these individuals that he was experiencing technical difficulties with his own bank account, thereby rendering him unable to receive any funds directly. Relying on this false pretext, the applicant persuaded these persons to accept the deposits in their respective accounts, withdraw the amounts in cash, and subsequently hand over the money to him. The learned APP emphasises that the applicant is the ultimate beneficiary of the misappropriated funds and played a key role in the alleged crime. The applicant also executed an undertaking on a stamp paper in 2022 promising to refund the accepted amounts to the informant. Furthermore, the learned APP argues that the

applicant has been evading legal proceedings by absconding and deliberately remaining unavailable for investigation over a considerable period by not approaching the appropriate legal forums and concealing himself from investigation. His actions do not warrant any discretionary relief.

5. This Court has considered the rival submissions canvassed across the Bar and perused the records.

6. It is a settled position in law that the power to grant anticipatory bail is extraordinary. While it has been acknowledged in many instances that regular bail is considered a general rule, the same analogy cannot be applied to anticipatory bail. The decision to grant anticipatory bail must be exercised with careful and prudent discretion by the Court, considering each case's specific circumstances. A straitjacket formula cannot be applied. While exercising this power, the Court must exercise caution, as granting protection in serious cases could lead to a miscarriage of justice or hinder the investigation by allowing tampering or destruction of evidence. A profitable reference in this regard can be made to 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 engaging in deceitful

conduct by providing false assurances to the informant, claiming he could secure employment for her son within the Thane Municipal Corporation. In furtherance of this deception, the applicant allegedly accepted a substantial amount of Rs.9,60,000/- from the informant. To maintain the illusion of legitimacy, he remained in regular contact with the informant, reinforcing the impression that active steps were being taken to facilitate the promised job placement. A perusal of the records, particularly the statements of witnesses, reveal that the applicant misrepresented to certain acquaintances that a technical issue with his bank account prevented him from receiving funds directly. Acting upon his request and unaware of the illicit origin of the funds, these persons permitted the use of their bank accounts, withdrew the deposited amounts in cash, and subsequently handed them over to the applicant. On a *prima facie* basis the applicant seems to be the ultimate beneficiary of the alleged funds. Furthermore, the applicant executed a document on stamp paper in 2022, wherein he gave a written undertaking to refund the money accepted from the informant towards the job placement. Notably, the FIR was registered on 12 December 2023. Despite the registration of the FIR, the applicant did not approach the Sessions Court for anticipatory bail until 21 September 2024, over nine months later. The Sessions Court subsequently rejected the bail application on 30 September 2024, and the present application for pre-arrest bail was filed only on 13 December 2024. This sequence of events reflects an undue and unexplained delay in approaching both the Sessions Court and this Court for pre-arrest relief. During this extended period, the applicant has not cooperated with the investigation and has remained unavailable to the investigating authority.

8. The material on record, the nature of the allegations, and the applicant's conduct do not entitle the applicant to the relief of pre-arrest bail. As a result, the present application stands rejected.

(R.N. Laddha, J.)