IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Anticipatory Bail Application No.3542 of 2024

Jitendra Bhikha Solanki
An Indian Inhabitant of Mumbai,
Age 51 years, Occ.: Service,
R/of Room No.52, Central Railway
CLY, Matunga, T. H. Kataria Marg,
Mumbai – 400 019. … Applicant

versus

The State of Maharashtra
(vide Mahim Police Station
In CR No.461/2024) … Respondent

Mr Majeed Memon, Senior Advocate, along with Mr K Joseph and Mr Tapish Jain, for the applicant.
Mr Arfan Sait, APP, for the respondent/ State.

Coram: R.N. Laddha, J.
Date: 18 March 2025

P.C.:

By this successive anticipatory bail application, the applicant, who is apprehending arrest in CR No.461 of 2024, registered at Mahim Police Station, Mumbai, seeks pre-arrest bail for the offences punishable under Sections 406 and 420 read with 34 of the Indian Penal Code.

2. The applicant is accused of soliciting Rs.10,00,000/-

under the false pretence of guaranteeing employment for the informant's son within the Municipal Corporation of Greater Mumbai ('MCGM') and accepting a substantial amount towards an advance payment.

3. Mr Majeed Memon, the learned Senior Counsel appearing on behalf of the applicant, submits that there has been an undue and substantial delay in the filing of the First Information Report (FIR), which cast serious doubt on the credibility and veracity of the accusations levelled against the applicant. Such an unexplained delay raises concerns regarding the *bona fides* of the prosecution's case. Furthermore, the applicant is a permanent employee of the MCGM, which underscores his stable professional background and deep-rooted ties to the community. As a result, the applicant does not pose a flight risk and is unlikely to evade the process of law. Additionally, he submits that the investigation in the present matter has already reached an advanced stage, thereby diminishing any necessity for the applicant's custodial interrogation. The learned Senior Counsel further submits that the applicant is ready to deposit Rs.2,00,000/- to show his *bona fides*. In these circumstances, subjecting the applicant to custodial detention would serve no practical purpose and would be unwarranted.

4. Mr Arfan Sait, the learned Additional Public Prosecutor representing the respondent/State, strongly opposes the applicant's claim. He asserts that credible witnesses were present when the applicant demanded and accepted financial gratification. These witnesses corroborate the prosecution's case and confirm the applicant's direct involvement in the illicit transactions. The learned APP further contends that the applicant received a direct payment of Rs.2,00,000/- into his bank account, establishing a tangible monetary link to the offence. Following this, the applicant made further demands, resulting in a cheque of Rs.3,00,000/- being issued in his favour, which was then deposited into the account of Hemlata, the wife of the deceased co-accused. In exchange for these payments, the applicant assured the informant that her son would secure employment in the Solid Waste Management Department of the MCGM. To substantiate his promise, the applicant handed over a forged job order along with a medical examination report while simultaneously demanding the remaining sum of Rs.5,00,000/-. Additionally, the applicant provided the informant's son with a counterfeit identity card and other fabricated documents, further implicating himself in the offence. Using this *modus operandi,* the applicant orchestrated a well-coordinated and fraudulent scheme. Furthermore, the learned APP submits that the applicant has

criminal antecedents, with a similar offence bearing CR No.8 of 2022 registered at NM Joshi Marg Police Station. The learned APP emphasises that the present application is untenable as it does not raise any new grounds to justify the request for pre-arrest bail.

5. Mr Sait further submits that after the rejection of the earlier Anticipatory Bail Application No.2987 of 2024 on 25 October 2024, the applicant neither challenged the rejection order before the Hon'ble Supreme Court nor surrendered himself but chose to hide from the investigation. The investigation is in progress, and the applicant's custody is necessary to ascertain the details of the fraud. Given the applicant's conduct and the seriousness of the offence, the learned APP submits that if the applicant is granted pre-arrest bail, he may tamper with the evidence, influence the witnesses, and hinder the investigation.

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

7. It is a well-established legal principle that filing a successive application for anticipatory bail is not prohibited. However, for such an application to succeed, the accused must demonstrate that there has been a significant change in

circumstances. A mere superficial justification for the change would not suffice to warrant the approval of a second application for pre-arrest bail. Further, the request can be denied summarily if the grounds presented in the previous application are reiterated in the subsequent anticipatory bail application. A profitable reference in this regard can be made to ***GR Ananda Babu Vs State of Tamil Nadu and Anr*[1]*, Rani Dudeja Vs State of Haryana*[2]*, Bhisham Singh Vs State of Haryana*[3]*, and Imratlal Vishwakarma and Ors Vs State of MP*[4]**.

8. It is also a settled position in law that granting pre-arrest bail is an extraordinary power. While regular bail is generally considered the norm, the same principle does not apply to anticipatory bail. Considering each case's specific circumstances, the Court must exercise careful and prudent discretion when deciding whether to grant anticipatory bail. There is no straitjacket formula. Caution is necessary, as granting protection in serious cases could potentially hinder investigation or lead to miscarriage of justice by allowing tampering with evidence. These aspects are highlighted in ***Srikant Upadhyay Vs State of Bihar*[5]**.

[1] (2021) 16 SCC 725

[2] (2017) 13 SCC 555

[3] 2024 (3) Criminal CC 490

[4] 1997 (1) Crimes 289

[5] 2024 SCC OnLine SC 282

9. The crux of the allegations is that the applicant and the co-accused dishonestly induced the informant to pay substantial sums in order to secure employment for her son in the MCGM's Solid Waste Management Department. To further this deception, the applicant is accused of producing forged documents that purportedly demonstrated that the informant's son was employed in that department. A perusal of the record indicates that the applicant received Rs.2,00,000/- in his bank account, which coincides with the generation of fraudulent documents between March 2015 and November 2016. *Prima facie,* sufficient material is on record to suggest the applicant's involvement in the crime. Moreover, the applicant has criminal antecedents of similar nature.

10. Apart from the applicant's willingness to deposit Rs.2,00,000/-, the record does not indicate any substantial change in circumstances that would justify this Court's indulgence in a successive pre-arrest bail application, especially when the earlier order dated 25 October 2024 passed by this Court in Anticipatory Bail Application No.2987 of 2024 was not challenged, and the applicant did not surrender to the investigating agency and co-operate with the investigation.

11. In such situations, custodial interrogation is crucial to uncover the fraud in all its dimensions and trace the financial

movements. The investigation is ongoing, and there is a likelihood of other victims being affected in a similar manner. In these circumstances, granting the applicant pre-arrest bail would jeopardise the investigation.

12. Given the foregoing, 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.)