Prasad Rajput
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 32 OF 2025

Chetan Avchar Shah .. Applicant
Versus
The State Of Maharashtra .. Respondent

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- Ms. Kranti S.S. Anand, Advocate for Applicant.
- Mrs. Mahalaxmi Ganpathy, APP for State.
- Smt. Anita Salunke, API, D.B. Marg Police Station.

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WITH

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 34 OF 2025

Paras Hasmukhlal Daftary .. Applicant
Versus
The State Of Maharashtra .. Respondent

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- Mr. Chaitanya Pendse a/w Ms. Ilsa Shaikh, for Applicant.
- Mr. Dinesh Haldankar, APP for State.
- Smt. Anita Salunke, API, D.B. Marg Police Station.

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CORAM : MILIND N. JADHAV, J.
DATE : JANUARY 08, 2025

P.C.:

1. Heard Ms. Anand, learned Advocate for Applicant and Mrs. Ganpathy, learned APP for State in Anticipatory Bail Application No. 32 of 2025; Mr. Pendse, learned Advocate for Applicant and Mr. Haldankar, learned APP for State in Anticipatory Bail Application No. 34 of 2025.

2. Present Anticipatory Bail Applications are filed by Applicants in view of the apprehension that they might be arrested in the crime registered against them in connection with FIR bearing C.R. No. 836 of 2024 registered on 25.11.2024 by one Santosh Balkrishna Lonandkar for the offences punishable under Sections 409 and 420 of the Indian Penal Code, 1860. Facts are identical arising out of the same crime and overlapping. Hence, they are heard together.

3. Prosecution case is that the First Informant had entered into a transaction with the Applicants herein arrayed as Accused No.1 and 2. This transaction incidentally is dated 07.03.2022. It is almost more than 2 years and 7 months prior to filing of the complaint by the Complainant. Transaction pertains to dealing in the business of diamonds. Record shows that Applicant No.1 is a broker dealing in the business of trading diamonds, vehicles and landed properties and most importantly he was the broker of the Complainant. This shows that there was relationship between the parties. Trust, undoubtedly was established between the parties.

4. According to prosecution Accused No.1 introduced accused No.2 to the Complainant and Accused No.2 placed an order for purchase of diamonds from the Complainant. Price was fixed and accused No.2 agreed to purchase diamonds worth Rs. 20,00,000/-. Agreement between the parties was that amount would be paid by cheque in respect of the said sale and purchase. According to prosecution on the date of the transaction on which the diamonds were given both Accused No.1 and 2 were present and learned APP would inform the Court that Accused No.1 has signed Jangad receipt of receving the diamonds against two cheques of Rs. 10,00,000/- each issued by the Accused No.2 in favour of the Complainant.

5. According to Accused No.2 he did not sign the cheques. According to him the drawer of the cheque was M/s. One investments and Accused No.2 has no nexus with the said drawer which requires investigation. However, at the same time there was certain discussion between the parties with respect to sale and purchase of a Toyota Fortuner Car about which the registration papers and all documents were shared with the Complainant who had evinced interest in buying the car. The price of the car was fixed at approximately Rs. 21,00,000/- but after discussion it was brought down to Rs. 20,00,000/-. Agreement between the parties was that Complainant would pay Rs.20,00,000/- by cheque for the purchase of the said car upon which all the necessary registration papers and documents shall be handed over to him. This aspect requires investigation *qua* the deal in diamonds.

6. In this backdrop of the said twin transaction for which now investigation becomes all the more necessary since after a hiatus of more than 2 years and 7 months the Complainant has alleged that accused are guilty of cheating him by not paying the balance amount. Be that as it may, there is also exchange of substantial correspondence in the form of electronic mail / messages between the parties during that time and thereafter. All this undoubtedly will require an appropriate investigation. What is seen and fairly pointed out by the learned APP is that in the interregnum the Complainant evoked action under Section 138 of the Negotiable Instruments Act in view of the twin cheques having been dishonored. Primarily that is the reason for the long delay in filing the FIR on 25.12.2024.

7. Though learned APP would draw my attention to the copy of the Jangad receipts, it is the case of the Applicants before me that Accused No.1 has not signed any such Jangad receipt or any such document and the same is forged and fabricated. If the Complainant could have approached the investigating machinery immediately the scenario could have been different. At the same time it is seen that there was one more transaction between the parties which is emanating from the record i.e. sale of a Jaguar car by the Accused No.1 to the Complainant for a substantial amount of money out of which Accused No.1's case is that he received only Rs. 2.75 lakhs and balance was due. In this regard what is crucial to be noted is that a cross complaint / FIR has also been lodged against the Complainant in the present case by the Accused No.1 with the Tilak Nagar Police Station.

8. Aforesaid transactions between the parties as can be seen undoubtedly call for investigation from all parties. Custodial interrogation of the accused in the present crime in my opinion is not required if the accused are ready and willing to cooperate with the investigation. Both the learned Counsel would submit that they shall ensure absolute cooperation with respect to all aforementioned transactions which in my opinion at a *prima facie* stage are convoluted, rather confused and therefore an appropriate direction will have to be given by the concerned Investigating Officer to unravel the same. Invocation of appropriate alternate remedy under Section 138 in the meanwhile is also one factor which I am bound to consider in the present case on the part of the Complainant inevitably leading to filing of present complaint / FIR after a lapse of more than 2 years and 7 months.

9. Though the learned APP has vehemently objected to grant of relief, I am of the clear opinion that presence of the Applicants can be secured as also their cooperation. I am not able to understand as to how it will affect investigation and it will be hampered if the Applicants are not arrested.

10. The Investigating Officer is directed to proceed with the investigation after enlisting cooperation of all parties. The Applicants assure that they shall abide by the conditions as imposed by the Court.

11. In the above facts, the Anticipatory Bail Applications stands allowed in both Applications in terms of prayer Clause A as stated therein.

ORDER

(i) In the event of the arrest, the Applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 50,000/- each with one or two sureties in the like amount.

(ii) Applicants shall report to the concerned Police Station from 20th to 24th January, 2025 from 10.00 a.m. to 05:00 p.m. initially and thereafter once every month on the first Monday of the month between 10.00 a.m. to 05:00 p.m. as also as and when called and required by the concerned Police Station;

(iii) Applicants shall keep the Investigating Officer informed of their current address and mobile contact number and/or change of residence or mobile details, if any, from time to time, as applicable;

(v) If there is breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicants' bail;

(vi) Applicants shall not misuse his liberty in any manner or to influence the witnesses in any way; and

(vii) Any infraction of the conditions shall entail cancellation of bail granted to the Applicants.

12. The Applications stand allowed in aforesaid terms and accordingly disposed.

P.R. Rajput

[MILIND N. JADHAV, J.]