Prasad Rajput
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 45 OF 2025

Imran Iliyas Khan .. Applicant
Versus
State of Maharashtra .. Respondent

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- Mr. Akib S. Shaikh, for Applicant.
- Mrs. Sukanta A. Karmakar, APP for State.
- Mr. Pandurang Rane, PSI, ShahuNagar Police Station, Mumbai.

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CORAM : MILIND N. JADHAV, J.
DATE : JANUARY 09, 2025

P.C.:

1. Heard Mr. Shaikh, learned Advocate for Applicant and Mrs. Karmakar, learned APP for State.

2. This is an Application filed by Applicant seeking anticipatory bail. He is indicted in connection with the FIR having C.R. No. 146 of 2024 filed on 1st May, 2024 registered with the Shahu Nagar Police Station for the offences punishable under Sections 419, 420 of Indian Penal Code, 1860 r/w Sections 66(C), 66(D) of IT Act. FIR has been lodged by First Informant Ejaj Ahmed Nihal Ahmed Shaikh who conducts business of repairing sewing machines at Maulana Azad Nagar, Jasmil Road, Dharavi, Mumbai in the name and style "Karishma Enterprises".

3. Complainant had procured QR Code of Google Pay App linked with his bank account in Bank of India for enabling online transactions for the purpose of his business. On 17th April, 2024 at about 07.10 p.m. in the evening the Applicant visited the shop premises of the Complainant for updating the QR code on behalf of the Bank. Two and half months prior to this date the Applicant had visited the Complainant in his shop premises and informed him that he was the Bank's agent and henceforth he would be visiting him for the purpose of updating the Bank's QR code. He convinced the Complainant and left his mobile number and his name with him. Thus, on 17th April, 2024 he approached the Complainant on the pretext of updating his QR code and for this reason he took his mobile Phone and operated it for 5 minutes and returned it back to the Complainant stating that the QR code was updated. He however informed the Complainant that since the server was down the QR code will be updated after ten minutes and thereafter he left the shop. Immediately thereafter the Complainant received two messages of cash transactions of Rs. 8,000/- having been done from his bank account on the basis of the QR code to some third party through his Google Pay App. When the Complainant called up the two third parties they gave him evasive replies. The Complainant realized that he was cheated and therefore lodged the FIR.

4. Though learned Advocate for the Applicant has attempted to evoke the sympathy of the Court by stating that the Applicant is working as sales person, that he is having two daughters to provide care and support for and he is residing in the a rented accommodation in Ghatkopar area, I am not at all impressed with these submissions for the simple reason that perusal of the FIR clearly shows that Applicant may have been using the aforesaid *modus operandi* for committing similar crime with many persons. The Applicant *prima facie* appears to be an intelligent person as he is committing this kind of a crime for much smaller amounts/denominations but possibly in the present case he has met his nemesis in the form of the Complainant who has brought him to the book of law.

5. *Prima facie* the Applicant is in my opinion nothing but a Cyber criminal. A criminal cannot be judged on the basis of the amount that he siphons but on the basis of his overt act. If such act is not curbed at this stage, this very Applicant before the Court will go on to become a Cyber criminal of a bigger magnitude.

6. In today's times we are faced with such offences day in and day out. Commission of the offence of cheating and fraud is clearly apparent from the complaint itself. Even though learned Advocate for the Applicant would state the prosecution has recovered the entire monies and therefore he should be granted anticipatory bail, I am not inclined to accept this submission either. Cyber crimes are increasing day by day and therefore it is necessary to interrogate the Applicant regarding his *modus operandi*, his associates and how many people he may have duped in the past. The Applicant will not be alone in this act. The fact that in the present case Complainant called the third party called Kunjan Gautam and he giving evasive replies to the Complainant after receiving monies from his bank account itself shows that the Applicant is not alone in committing this offence and crime. There may be others who for small sums may not approach the Police authorities. This may also have been taken advantage of by this Applicant.

7. Many a times it becomes difficult for citizens to ascertain the veracity of the person who identifies himself as agent of Banks and approaches them for providing services with respect to the issue in the present case namely updation of QR code. These persons show Bank I.D. Cards which when seen are *prima facie* believable. It is seen that QR codes are today extensively used even by people operating their wares and having their goods on the road including those practically in all shops and establishments. The possibility of Applicant having indulged in similar fraud therefore cannot be ruled out in case of many others. The Applicant is clearly not alone in this crime.

8. Other defence taken before the Sessions court by the Applicant is that the mobile phone number provided by the

Complainant in the FIR is not of the applicant. This is not surprising at all. Though amount involved in the present case is only Rs. 8,000/- but still has value and more so for the person of the stature of the Complainant who conducts business of repairing sewing machines. The magnitude of the fraudulent act is more important than the amount involved in the crime and if it is not curbed at the right time it cannot be ruled out that this Applicant will remain silent. He will continue his fraudulent acts.

9. I am also informed that the Applicant is absconding and not answering summons issued by the Investigating Officer which also militates against the Applicant's case.

10. The Investigating Officer in the case shall therefore ensure that he will unearth the entire *modus operandi* of the Applicant and his associates to send a strong message and carry out proper investigation.

11. In view of above observations, the Applicant is not entitled to any relief.

12. Application stands dismissed.

P.R. Rajput

[MILIND N. JADHAV, J.]