

AGK

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 87 OF 2025

Sawon Chaudhary ... Applicant
V/s.
The State of Maharashtra & Anr. ... Respondents

Mr. Karma Vivan a/w Mr. Hormuz Mehta and Mr. Ahsan Allana, and Mr. Kunal Bilaney i/by J. Sagar Associates, for the applicant.

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Mr. Sagar R. Agarkar, APP for respondent No.1-State.

Mr. Subhash Jha a/w Kalpana Chate, Mr. Siddharth Jha, Mr. Sumeet Upadhyay, Mr. Ashish Saxena, Mr. Bharat Shinde, Mr. Parthraj Ware, Mr. Govind Mundhe, and Ms. Neha Rathod i/b Mr. Sumit Kumar Nimbalkar for respondent No.2-Intervener.

Mr. Rajratna Khairnar, API, Khandeshwar Police Station, is present.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 22, 2025

P.C.:

1. By this application, the applicant seeks relief of pre-arrest bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, apprehending arrest in connection with Crime Register No.730 of 2024 registered with Panvel Police Station for offences punishable under Sections 318(4), 316(2), 338, 336(3), 340(2), 61(2), 3(5) of the Bharatiya Nyaya Sanhita, 2023.

2. As per the prosecution, the First Informant was acquainted with accused No.1 and his wife since their student days. Accused No.1 frequently visited the house of the First Informant. In June 2022, the father of the First Informant retired from CIDCO and received retirement benefits. This fact was known to accused No.1 and his family. In April 2023, accused No.1 called the First Informant and his father, Sandip Vasant Mhatre, to Garden Hotel at Panvel. There he introduced an investment plan in J.P. Morgan Chase company, claiming that he was working there and assured them of crores of rupees as returns after maturity.

3. Accused No.1, along with his wife Arushi (accused No.2) and his father, Bhaskar Chaudhary (accused No.3), pressed the First Informant and his father to invest. It was also represented that Bhaskar Chaudhary had already received Rs.5.5 crores and the brother of accused No.1, Sawan Chaudhary, had received Rs.19.20 crores by investing in the same company. On 15 May 2023, accused No.1 sent a PDF file, an investment acknowledgement, and a withdrawal acknowledgement from his mobile phone to the First Informant's mobile, claiming them to be documents of the said company.

4. Believing these assurances, the First Informant and his father were induced to invest from time to time, on the promise of returns of 380% to 1000%. They were also told that the funds should be transferred to the account of Sounak Bhaskar Chaudhary and that thereafter Advocate Rohit Dalmiya would prepare the necessary documents. Convinced by these words, the First Informant initially invested Rs.12,00,000 on 21 and 22 April 2023.

Further amounts of Rs.4,75,000 and Rs.25,000 were transferred on 6 May and 8 May 2023 to the account of accused No.1. After this, accused No.1 sent an “Investment Acknowledgement” on WhatsApp showing a maturity value of Rs.40,00,000. He also assured that if the maturity was not claimed and reinvested, the returns would multiply up to 1000% and official documentation from the Reserve Bank of India and Central Government would follow. Thereafter, between 12 May 2023 and 18 June 2024, the First Informant invested a total sum of Rs.2,71,50,000, out of which Rs.2,15,00,000 was through bank transfer to accused No.1 and the balance allegedly paid in cash.

5. During this period, accused No.1 continued to send investment acknowledgements on WhatsApp. When the First Informant and his father started demanding returns between May 2023 and July 2024, accused No.1 and his wife assured them that the documents were confirmed by RBI orders, letters from the Prime Minister’s Office, and even orders of Hon’ble Justice Mr. Dipankar Datta of the Supreme Court. They further stated that the invested money had grown to Rs.11,85,50,000 and the said amount was already shown in the account of accused No.1.

6. On 9 January 2024, accused No.1 took the First Informant to New Delhi, stating that a case would be filed before the Banking Ombudsman, RBI, and MCA. They stayed at Vivanta Hotel, Dwarka. However, accused No.1 told the First Informant that due to security reasons he could not accompany him to Sansad Bhavan and would himself obtain information about maturity. They returned to Mumbai on 10 January 2024. Subsequent trips

planned by accused No.1 on 22 January 2024 and 29 February 2024 were cancelled.

7. Thereafter, when the First Informant, his father, and his uncle Yatin Tandel repeatedly questioned accused No.1, he kept giving excuses of personal difficulties and kept delaying the matter. In October 2024, when the family members of accused No.1 were contacted, they also assured that the investment was safe and that accused No.1 had all legal documents. Advocate Rohit Dalmiya also assured them that the claim would be settled and requested them not to lodge any complaint. Accused No.1 also requested that his family should not be disturbed.

8. Later, when the First Informant and his family visited the accused persons, they realized they had been cheated. On being confronted, accused No.3 abused and threatened them. In the last week before the complaint, accused No.1 threatened the First Informant by saying, "If you harm my family in any way, I will not give you anything and I will see that you cannot stay in Navi Mumbai." These threats made it clear that the accused had no intention to return the invested amount.

9. Thus, the accused dishonestly induced the First Informant and his family to part with Rs.2,71,50,000 by giving false assurances, fabricated documents including letters on RBI letterhead, and false claims of huge returns. By misusing the trust reposed in them, the accused cheated the First Informant and his family, leading to registration of the present crime.

10. Learned Advocate for the applicant submitted that this Court has already granted interim protection to the applicant. He argued that the charge-sheet has been filed and the investigation is complete. The only allegation against the applicant in the charge-sheet is that he received Rs.63.45 lakh from his brother, accused No.1. The applicant has already deposited this amount in the Trial Court. He further submitted that the applicant and his wife are also victims, as they had invested Rs.80 lakh with his brother, accused No.1, and they too have been cheated in the same manner as described in the FIR. They have not yet received even their principal amount.

11. A plain reading of the FIR and charge-sheet, according to him, shows that there are no allegations of inducement, cheating, or forgery made against the applicant. He was not even named as an accused at the time of lodging the FIR. He argued that Form-5B of the charge-sheet shows the applicant as an accused. This is not a typographical error, as is clear from the charge-sheet itself. Therefore, the submission of the prosecution that the Investigating Officer mistakenly included the applicant as an accused cannot be accepted. There is no question of correcting such a charge-sheet. However, even if that is so, the prosecution has the liberty under Section 193(9) of the BNSS (corresponding to old Section 173(8) Cr.P.C.) to continue the investigation. He emphasized that the applicant has fully cooperated with the investigation during the period of interim protection. Hence, the interim order protecting him deserves to be continued.

12. On the other hand, learned Advocate for the informant submitted that the communication dated 27 March 2024, allegedly issued by the Reserve Bank of India, is a forged document. He pointed out that this document was counter-signed by the applicant and even contains the name of a sitting Judge of the Supreme Court, which makes the matter extremely serious. Referring to the statement of the applicant's bank account, he argued that several amounts were transferred by accused No.1 to the applicant, totalling Rs.63,45,000, out of which Rs.7,00,000 was later returned to accused No.1. He also relied on the WhatsApp messages exchanged between the applicant and accused No.1, which referred to a "security deposit" and instructions to print a PDF containing the name of RBI. According to him, this shows that accused No.1 and the applicant were acting together, and that there was a meeting of minds, which satisfies the requirement of Section 120-B. He, therefore, submitted that the material on record clearly shows the complicity of the applicant in the conspiracy.

13. He further submitted that the deposit of Rs.63,45,000 by the applicant is of no consequence. He relied on the judgment of the Supreme Court in *Gajanan Dattatray Gore v. State of Maharashtra*, 2005 SCC OnLine SC 1571, where it was held that Courts deciding bail applications must do so strictly on the merits of the case, and cannot exercise discretion merely because the accused is ready and willing to make payment. He therefore urged that the present application deserves to be rejected.

14. In support of his submissions, he relied upon the decisions of the Supreme Court in *Naveen Singh v. State of Uttar Pradesh & Anr.*, (2021) 6 SCC 191 and *M.R. Ajayan v. State of Kerala & Ors.*, 2024 SCC OnLine SC 3373.

15. Learned APP also opposed the application. He submitted that the material on record shows the involvement of the applicant in the offence. Considering the seriousness of the allegations and the nature of the evidence, he submitted that the application deserves to be rejected.

16. I have considered the application, the charge-sheet, the FIR, the documents on record and the rival submissions.

17. The core question is whether the materials before this Court show a prima facie case against the applicant that makes arrest necessary for the progress of investigation or to prevent tampering with evidence or witnesses.

18. The charge-sheet shows that the applicant received Rs.63,45,000 from accused No.1. The applicant has deposited that amount in the Trial Court. The deposit is on record. The applicant and his wife say that they themselves invested Rs.80,00,000 with accused No.1 and have not been paid back. They claim victimhood.

19. The FIR, as lodged, the allegations of inducement, cheating and forgery are directed at accused No.1 and his associates. The charge-sheet records the applicant as an accused in Form 5B.

20. The prosecution relies upon three categories of material against the applicant. First, the bank entries showing transfers from accused No.1 to the applicant. Second, exchange of messages and PDFs between accused No.1 and the applicant. Third, an alleged communication on Reserve Bank of India letterhead said to bear the applicant's counter-signature and a reference to a sitting Judge.

21. Each of these items requires close examination. The bank transfers, taken by themselves, only show that certain amounts moved from accused No.1 to the applicant. Mere receipt of money does not automatically establish participation in a criminal conspiracy. There can be lawful and innocent reasons for such transfers.

22. The applicant has explained that these amounts were part of investments and repayments exchanged between him and his brother, accused No.1, within the family. This explanation cannot be brushed aside at this stage. It gains support from two important facts. First, out of the total sum received, an amount of Rs.7,00,000 was admittedly sent back by the applicant to accused No.1. Second, the entire sum of Rs.63,45,000 received by the applicant has now been deposited before the Trial Court.

23. These circumstances indicate that the applicant is not attempting to derive unlawful gain from the said amount, nor is he withholding it. Instead, by placing the money at the disposal of the Court, he has shown conduct consistent with a bona fide explanation. On the other hand, if the transfers were truly part of a

criminal design, one would expect concealment of funds, creation of false trails, or refusal to account for the sums received. Here, the applicant has acted in a transparent manner, placing the disputed sum before the judicial process.

24. Therefore, the material on record weakens the claim that the mere bank transfers indicates the applicant's active involvement in a conspiracy.

25. The next item relied upon by the prosecution is the alleged forged communication on the letterhead of the Reserve Bank of India, which is stated to bear the counter-signature of the applicant. The seriousness of this allegation cannot be understated. Forgery of such a document, that too involving the name of a sitting Judge of the Supreme Court, is a grave matter. However, at this stage, the Court must confine itself to what is supported by credible evidence.

26. The prosecution has not placed before this Court any forensic report establishing that the applicant himself authored or altered the document in question. No expert opinion or handwriting analysis has been produced to prove that the counter-signature appearing on the said document is in the hand of the applicant. Without such proof, the allegation rests only on assertion. Whether the document is forged, and if so, who is responsible for the forgery, are questions that can only be answered after trial upon examination of expert evidence. Until then, this material cannot be treated as sufficient to show active participation of the applicant in the alleged conspiracy.

27. The third category of material is the WhatsApp exchanges between the applicant and accused No.1. The prosecution points to certain messages where reference is made to a "security deposit" and instructions to take a printout of a PDF containing the name of RBI. These messages undoubtedly show contact between the applicant and accused No.1. But mere contact or communication between brothers does not by itself establish conspiracy.

28. To attract Section 120-B, there must be evidence of a meeting of minds and a shared intent to commit an unlawful act. They do not clearly establish that the applicant was actively planning, inducing, or assisting in the alleged fraud. The prosecution has not shown that the applicant forwarded these documents to investors, or that he used them for inducing investments. Absent such linkage, the messages fall short of proving complicity.

29. It must also be remembered that suspicion, however grave, cannot take the place of proof. Courts must rely only on credible and tested material while restricting personal liberty. At this stage, without corroboration, the WhatsApp messages cannot be elevated to the level of prima facie proof of conspiracy. They remain an area to be fully tested during trial.

30. The applicant cooperated with the investigation while interim protection ran. He supplied documents and attended for enquiries. He has no record before this Court indicating flight risk. He has family ties in the jurisdiction. He has already placed the disputed sum before the Trial Court. On these facts the risk of

absconding or tampering with evidence appears low.

31. In *Naveen Singh (supra)* , the Supreme Court considered a situation where forged documents were alleged to have been prepared. The Court held that such allegations are indeed serious in nature, but even in such cases, grant or refusal of bail must rest upon credible material showing active involvement of the accused.

32. Applying this principle here, the allegation against the applicant is that a forged communication on the letterhead of RBI bears his counter-signature and that WhatsApp exchanges with accused No.1 show some knowledge of the transactions. However, as already noted, there is no forensic report proving authorship of the alleged forged document, nor is there material showing that the applicant used or circulated such a document to induce investors. The case of *Naveen Singh* thus supports the view that unless there is credible proof of conscious involvement, the applicant cannot be denied anticipatory relief only on the basis of suspicion.

33. The learned Advocate for the informant placed reliance upon the judgment of the Supreme Court in *M.R. Ajayan (supra)* , to contend that forgery of documents connected with a criminal investigation is a matter of utmost seriousness and cannot be lightly brushed aside. In that case, the alleged forgery of evidence during investigation had resulted in the acquittal of an accused in an NDPS matter, and subsequently an FIR was registered. The Supreme Court held that, in such circumstances, interference by the High Court in quashing the proceedings was unwarranted.

34. The principle flowing from the said judgment is that allegations of forgery in the context of criminal proceedings must be examined with full seriousness, and that pre-trial interference by superior courts should be exercised with caution. However, the facts of the present case stand on a different footing. Here, the allegation is that a forged RBI communication bearing the counter-signature of the applicant was used by accused No.1. At this stage, there is no forensic or documentary evidence showing that the applicant himself forged the document, circulated it to investors, or used it for inducement. The only link relied upon is the appearance of his alleged counter-signature. Whether that signature is genuine and whether it amounts to participation in the forgery are matters for trial.

35. Therefore, while the principle in *M.R. Ajayan* guides us that forgery allegations cannot be treated as trivial, its application in the present case must be limited to recognising the seriousness of the charge. It does not by itself warrant denial of anticipatory bail when the material presently available falls short of showing conscious participation or necessity of arrest. The trial shall examine this allegation in depth on the basis of evidence.

36. The offences alleged are grave. The court recognises their gravity. Seriousness of charge alone cannot justify arrest if there is no material showing the accused's active role or danger to the investigation. A balance must follow from the material on record. That balance favours grant of bail in the present case.

37. The deposit made by the applicant cannot be the sole ground to secure bail. The law requires that the court decide bail on the merits. The deposit is, however, a relevant circumstance. It bears upon the applicant's conduct and on the risk of flight or concealment of assets. In the present facts the deposit supports the applicant's claim of bona fides.

38. For these reasons I find that the prosecution has not shown sufficient cause to deny anticipatory relief. The interim protection granted earlier shall be made final subject to the conditions that follow. The conditions are proportionate and necessary to protect the interest of the complainant and the progress of trial.

39. The application for pre-arrest bail under Section 482 BNSS stands allowed. The interim protection is made final on the following terms.

(i) The applicant shall execute a personal bond of Rs.50,000 with two sureties, each of Rs.25,000. The sureties must be resident within the jurisdiction of this Court and shall produce proof of residence and identity.

(ii) The amount of Rs.63,45,000 deposited by the applicant in the Trial Court shall continue to remain subject to the orders of the Trial Court.

(iii) The applicant shall not tamper with evidence, threaten or induce witnesses, or contact the complainant and his immediate family in any manner directly or indirectly.

(iv) The applicant shall surrender his passport, if any, to the Trial Court within seven days and he will not leave the country without prior permission of the Trial Court.

(v) The applicant shall cooperate with the investigation and shall be available to the Investigating Officer and the Trial Court as and when required.

(vi) The applicant shall inform the Trial Court and the Investigating Officer of any change of address or contact number within three days of such change.

(vii) In the event of breach of any condition, the prosecution may move this Court for revocation of this order and for arrest of the applicant.

40. It is clarified that the observations made in this order are only for the purpose of deciding the present application for pre-arrest bail. The Trial Court shall conduct the trial independently and decide all issues strictly on the basis of the evidence brought before it, uninfluenced by any observations made in this order.

(AMIT BORKAR, J.)