IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 123 OF 2025

Sandhya Brijkishor Vishwakarma ...Applicant
V/s
The State Of Maharashtra ...Respondent

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Adv. Sagar S. Rane for the Applicant.
Adv. Anand S. Shalgaonkar, APP for the State.
Mr. Rahul Pol, API, Vakola Police Station.

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CORAM : RAJESH S. PATIL, J.

DATED : 7th FEBRUARY, 2025

P.C.:

1. The Applicant has filed the present Application under Section 482 of the Bhartiya Nagarik Suraksha Sanhita 2023 for apprehending the arrest of the Applicant in C. R. No. 43 of 2024 registered with Vakola Police Station, Mumbai for the offences punishable under Section 120B, 420, 406, 504, 506 r/w 34 of the Indian Penal Code, 1860.

2. It is the case of the prosecution that the informant is doing a business of buying and selling of mobile phones more particularly I-phones. It is alleged that six years back, when the

informant had visited Reliance Akme Mall, Santacruz (W) Mumbai, he met one Mr. Ashfak Ali Shaikh (Accused No. 1). There was certain business transactions agreed between Accused No. 1 and the informant. It is alleged that in the year 2023 Accused No. 1 contacted the informant on his mobile phone and informed that the he has started a new business and there are four partners with him by name of Sultan Shaikh, Wasim Shaikh and Vishal Kesari @ Aru. Thereafter, one day, the informant had come to Santacruz to met his friend. On that day, the informant called out Accused No. 1 Ashfak Ali so as to talk about the new business. They both met and it was agreed that Accused No. 1 will keep mobile devices at a lower price than what is quoted at Reliance Akme Mall. Accordingly the informant trusted and give consent to the said business.

3. On 5th May, 2023, Accused No. 1 told the informant that he has received 10 I-phones and the same can be delivered to the informant by Vishal Kesari at Milan Subway, Khar, Mumbai. The price quoted was Rs. 5,90,000/-. Accordingly, the informant paid a sum of Rs. 5,90,000/- on Capital S. S. Enterprises account by an online transaction. However, after paying the price, the

mobile phones were not delivered. Hence, the informant asked to give back the money. The Accused No. 1 did not return the money and started threatening the informant. On 10th September, 2023, the informant went to met Accused No. 1 at his office, and found, he was not present there. Thereafter, Accused No. 1 give a cheque to through his office boy Sultan Shaikh of Rs. 15,30,000/-. As the money were not returned back, the informant found that the Accused No. 1 has lost all the money in gambling. The total amount paid by the informant to the Accused No. 1 was Rs. 54,07,534/-. Out of the said amount, Accused No. 1, paid Rs. 4,00,000/- to the Informant. Hence there is a balance of Rs. 50,00,000/- .As the money was not paid, the informant has lodged the FIR.

4. Mr. Rane, learned counsel for the Applicant submits that the Applicant lady was working as a cashier in the office of Accused No. 1 and she was not in charge of or responsible for any decisions taken by her employer. He submitted that the amounts which were paid by Accused No. 1 as an employer in the account of the present Applicant was a payment to be made towards the GST and those amounts were paid periodically. He submitted that

out of total five accused, four accused including the employer (Accused No. 1) have appeared before the Trial Court and bail has been granted to them. It is submitted that the present Applicant has no role to play and she is ready to co-operate with the police authorities.

5. Mr. Shalgaonkar, learned APP submitted that there are no criminal antecedents reported against the present Applicant as per their previous records. He submitted that otherwise, she is a beneficiary as according to the Investigating Officer. The money which was paid by the informant to the Accused No. 1, the said money has been further transferred by the Accused No. 1 periodically in the account of the present Applicant.

6. In the FIR, it is states that the amounts were paid by the informant to the Accused No. 1. The Accused No. 1 is the employer of Accused No. 5. It is nobodies case that the informant had paid money to the present Applicant/Accused No. 5. Therefore, in the real sense, the person who is alleged to have been cheated by not paying the amount and/or delivering the goods (I-phones) would be the Accused No. 1. The allegations against the Accused No. 1 is that he has spent those money in

gambling. Therefore, According to me, there is no specific role of the present Applicant can be seen in the FIR. Out of the five Accused, four accused have already been released on bail. Therefore, considering the Applicant is a lady, she needs to be protected and no purpose will be served by first arresting her and then giving her bail. Therefore, the Anticipatory Bail Application of the Applicant deserves to be allowed. Hence, I pass the following order.

O r d e r

(i) Anticipatory Bail Application is allowed.

(ii) In the event of his arrest in connection with Cr. No.43/2024, dated 10/01/2024 registered with Vakola Police Station, Mumbai, till filing of the chargesheet, the Applicant be released on bail on her executing PR Bond in the sum of Rs. 30,000 (Thirty Thousand Only) with one or two sureties in the like amount.

(iii) The Applicant shall attend the concerned Police Station once in 15 days till filing of the chargesheet.

(iv) The Applicant and her surety shall provide their respective mobile numbers, e-mail address and documents pertaining to the place of residence.

(v) The Applicant shall not tamper with the evidence of the prosecution in any manner. She shall not influence the informant, witnesses or any other person concerned with the case.

(vi) The Applicant shall not leave India without prior permission of the Court.

7. Anticipatory bail Application is accordingly disposed of.

(RAJESH S. PATIL, J.)