AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.221 OF 2025

Ramesh Ramdular Yadav … Applicant

V/s.

The State of Maharashtra … Respondent

Mr. Kuldeep S. Patil with Ms. Saili N. Dhuru for the applicant.

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

Mr. Rajendra Madhavi for respondent No.2.

Mr. A.Y. Patel, IO, Kalamboli Police Station, Navi Mumbai, is present.

ATUL GANESH KULKARNI
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Date: 2025.09.26 11:40:24 +0530

CORAM : AMIT BORKAR, J.

RESERVED ON SEPTEMBER 23, 2025

PRONOUNCED ON : SEPTEMBER 26, 2025

P.C.:

1. The applicant, apprehending arrest in connection with Crime Register No.395 of 2024 registered with Uran Police Station, District Raigad, for the offence punishable under Section 318(4) of the Bharatiya Nyaya Sanhita, 2023, has approached this Court seeking anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

2. As per the prosecution, the father of the complainant along with the co-owners was the owner of a land situated at village Punade, bearing Survey No.136, Hissa No.265, admeasuring 0-17-70 hectares. The owners intended to sell the said land. In the year

2017, the father of the complainant was introduced to the applicant through an agent as a prospective purchaser. Thereafter, a meeting was held between the applicant and the owners, wherein it was agreed that the applicant would purchase the said land for a consideration of Rs.43,00,000.

3. The prosecution case further is that the applicant made only part payment of the consideration and failed to pay the balance amount, thereby depriving the complainant's father and co-owners of their lawful dues. It is also alleged that the applicant issued cheques towards the balance amount, but the cheques were dishonoured. On enquiry, it was revealed that the person from whose account the cheques were issued had already expired and his account was closed. It is further alleged that the complainant's father and the co-sharers executed a power of attorney in favour of the applicant, which the applicant misused to execute a sale deed. The gravamen of the FIR is that the applicant, by not paying the agreed consideration and by misuse of documents, cheated the complainant and caused wrongful loss. On these allegations, the FIR came to be registered.

4. Mr. Kuldeep Patil, learned advocate for the applicant, submitted that the registered sale deed in question was executed on 29 November 2017 with the father of the complainant. However, the FIR has been lodged much later by the son on 3 December 2024. He invited my attention to the order passed by the SDO in exercise of powers under Section 150 of the Maharashtra Land Revenue Code. He pointed out that on 18 May 2018, the complainant's father himself filed an application before

the SDO stating that the dispute with the applicant had been settled, and on the basis of such application, the applicant's name came to be entered in the revenue record on 18 June 2018.

5. He further submitted that though there are complaints registered against the applicant under Section 420 of the IPC and Section 138 of the Negotiable Instruments Act, including about six cases under Section 420 IPC, the same by itself cannot be a ground to deny relief in the present case. He submitted that in this case no offence is made out on the basis of the allegations in the FIR. He also pointed out that this Court by order dated 10 February 2025, and even prior thereto the Sessions Court since 2024, had granted interim protection to the applicant. The applicant has cooperated with the investigation and has attended the police station whenever called. Therefore, he prayed that the applicant deserves to be protected.

6. Per contra, Mr. Rajendra Madhavi, learned advocate for the complainant, submitted that the complainant's father was a poor and illiterate farmer who was introduced to the applicant through a middleman. The applicant had agreed to purchase the land of the complainant's family for a consideration of Rs.43 lakh in 2017, and several meetings were held between the complainant's father and co-owners on one side and the applicant on the other. However, on the date of registration, instead of executing a sale deed, the applicant got an agreement to sell coupled with a power of attorney executed in his favour, with the ill intention of grabbing the property.

7. He further submitted that the applicant only paid an amount of Rs.13,90,000, and the balance was never paid. On the strength of the power of attorney, the applicant managed to get his name entered in the revenue record and took over the property. The cheques issued by the applicant were dishonoured. According to him, the applicant has adopted the same modus operandi to cheat others as well, and several such complaints exist against him. He therefore prayed that the application for anticipatory bail be rejected.

8. Mr. Agarkar, learned APP, submitted that the applicant has acted with the same modus operandi in several matters and has cheated innocent farmers. He pointed out that a number of crimes have been registered against the applicant. He submitted that the allegations in the present complaint are of a serious nature. Hence, according to him, the application for anticipatory bail deserves to be rejected.

9. Having considered the rival submissions and upon perusal of the material on record, the following reasons weigh with this Court in granting relief to the applicant.

10. The registered sale deed in respect of the property was executed as far back as 29 November 2017 with the complainant's father. The FIR has been lodged much later, on 3 December 2024, by the son. The long delay in approaching the police, though not by itself conclusive, does cast doubt on the bona fides of the prosecution case and calls for careful scrutiny.

11. The complainant's father himself, on 18 May 2018, moved an application before the SDO under Section 150 of the Maharashtra Land Revenue Code, stating that the issue with the applicant stood settled. On that basis, the applicant's name was duly entered in the revenue records on 18 June 2018. This contemporaneous conduct of the complainant's father prima facie supports the case of the applicant that there was no subsisting criminal intention at that stage.

12. The allegations, even if accepted in their entirety, essentially pertain to non-payment of balance consideration and dishonour of cheques. Such allegations are predominantly of civil and contractual nature. Whether the applicant failed to discharge his financial obligation or whether the power of attorney was rightly executed are matters which require adjudication in civil proceedings. At this stage, it cannot be said that the ingredients of Section 318(4) of the Bharatiya Nyaya Sanhita are clearly made out.

13. The record indicates that several cases are registered against the applicant. Some are under Section 420 of the Indian Penal Code and some under Section 138 of the Negotiable Instruments Act. The complainant has further pointed out that in many of these cases the allegations are similar in nature, namely, inducing parties to execute sale deeds or agreements, issuing cheques towards payment of consideration, and thereafter either withholding payment or allowing the cheques to be dishonoured. According to the complainant, this demonstrates a modus operandi and establishes dishonest intention on the part of the applicant from

the inception of the transaction.

14. There can be no doubt that antecedents are a relevant factor for consideration while deciding an application for anticipatory bail. The alleged pattern of conduct may also be looked at to assess the bona fides of the applicant. However, it is equally well settled that every case has to be examined on its own facts. The Court cannot proceed on the assumption of guilt merely because other cases are pending against the applicant or because there are allegations of a similar modus operandi.

15. The law requires that the Court, while considering an application under Section 438 of the Code of Criminal Procedure, must balance two competing considerations: on one hand, the need to protect the liberty of an individual, and on the other, the need to ensure a fair and effective investigation. The pendency of other criminal cases or allegations of repeated conduct may tilt the balance against the applicant if there is material to show that he is likely to abscond, tamper with evidence, or obstruct investigation. At the same time, if the applicant has cooperated with the investigation and custodial interrogation is not shown to be indispensable, anticipatory bail cannot be refused solely on the basis of antecedents.

16. In the present case, though the complainant has raised allegations of repeated modus operandi, no material has been placed on record to show that custodial interrogation of the applicant is necessary for recovery of property or discovery of facts. The applicant has been under interim protection since 2024

and has not misused that liberty. He has attended the investigation whenever called. In these circumstances, antecedents and allegations of modus operandi, though relevant, cannot by themselves be a ground to deny anticipatory bail. The focus must remain on the facts of the present FIR, which do not justify custodial interrogation.

17. The applicant has been protected by interim orders of the Sessions Court since 2024 and by this Court from 10 February 2025. During this period, the applicant has cooperated with the investigation and attended the police station whenever directed. There is nothing on record to suggest that he has misused the liberty granted to him.

18. The object of anticipatory bail is to secure the liberty of an individual while ensuring that the investigation is not hampered. In the facts of the present case, custodial interrogation of the applicant does not appear necessary, as the relevant documents are already in possession of the prosecution and the applicant has shown willingness to cooperate.

19. For all these reasons, this Court is of the considered view that the applicant deserves to be protected by grant of anticipatory bail.

20. Hence, following order is passed:

(i) The application is allowed.

(ii) In the event of arrest in connection with Crime Register No.395 of 2024 registered with Uran Police Station, District

Raigad, for the offence punishable under Section 318(4) of the Bharatiya Nyaya Sanhita, 2023, the applicant shall be released on bail on executing a personal bond of Rs.50,000 with one or two sureties in the like amount.

(iii) The applicant shall attend the concerned Police Station as and when called for investigation and shall cooperate with the Investigating Officer.

(iv) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the Investigating Agency.

(v) The applicant shall not tamper with the evidence or attempt to influence the witnesses.

(vi) The applicant shall furnish his residential address and contact details to the Investigating Officer and shall not change his residence without prior intimation to the Investigating Officer.

(vii) The applicant shall regularly attend the proceedings before the trial Court and shall not misuse the liberty granted by this Court.

(viii) It is made clear that if there is any breach of these conditions, the prosecution will be at liberty to apply for cancellation of bail.

21. The application for anticipatory bail is allowed and disposed of.

(AMIT BORKAR, J.)