IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Anticipatory Bail Application No. 475 of 2025

Sarvjeet Bahuran Kumar
Aged 32 years, Occ: Service,
Indian Inhabitant, R/at. 329,
Vrundavan Society, Bhestan,
Station Road, Jiav, Surat,
Gujarat – 395 023. … Applicant

versus

The State of Maharashtra
Through Goregaon Police Station,
Mumbai. …Respondent

Mr Diwakar Dwivedi i/b Mr Pankaj Dwivedi, for the Applicant.
Mr A S Shalgaonkar, APP, for Respondent / State.
API Atul Sanap, Goregaon Police Station, Mumbai, is present.

Coram: R.N. Laddha, J.
Date: 12 August 2025

P.C.:

By this application, the applicant seeks pre-arrest bail in connection with CR No.664 of 2024, registered at Goregaon Police Station, Mumbai, for offences punishable under Section 318(4) of the Bharatiya Nyaya Sanhita, 2023, and Sections 66(C) and 66(D) of the Information Technology Act, 2000.

2. It is the case of the prosecution that the informant and his mother, hold a joint Axis Bank Account. On 20 August 2024, the informant received a fraudulent SMS containing a link to a fake Axis Bank website. Upon entering his mobile number, he received an OTP, which he did not disclose. He later received a call from an unknown number requesting the OTP, which he refused to share and disconnected the call. Shortly thereafter, Rs.4,98,500/- was fraudulently debited from the account. When the informant contacted a customer care number found online, he was advised to approach Axis Bank, Goregaon. Realising that he had been defrauded, the informant lodged a cyber complaint on the same day, which culminated in the present FIR.

3. Mr Diwakar Dwivedi, the learned Counsel appearing on behalf of the applicant, asserts the applicant's innocence and contends that the applicant has been falsely implicated in the crime. He submits that the applicant holds three credit cards from Axis Bank and was approached by one Mr Shukla, who presented an enticing offer for credit cards with more favourable repayment terms. Trusting Shukla's claims, the applicant handed over all three of his credit cards without verifying his credentials. To his surprise, the applicant later discovered that approximately Rs.64,000/- had been deposited

into his account. When he confronted Shukla about this unexpected transaction, Shukla deflected and avoided answering his questions. The learned Counsel further submits that the applicant was subsequently arrested by the Gaondevi Police Station and later brought before the Metropolitan Magistrate Court in Girgaon, after which he was released on bail. There is nothing to be recovered or discovered from the applicant, and the applicant is ready to comply with any conditions set forth by this Court.

4. Mr AS Shalgaonkar, the learned Additional Public Prosecutor representing the respondent/ State, opposes the applicant's request for pre-arrest bail and contends that the offence is of a grave and serious nature. He submits that the applicant was instrumental in the commission of the offence and is a direct beneficiary of the illicit funds. The funds were utilised to repay credit card dues. The applicant's custody is deemed necessary to uncover the fraud in all its facets and unmask the individuals involved in this fictitious scheme. The learned APP points out that despite the service of a notice under Section 35(3) of the BNSS, the applicant has absconded and concealed himself from the investigation. The applicant has criminal antecedents of a similar nature. The investigation is in progress, and there is a possibility that more victims may come

forward. At this juncture, granting bail could severely dent the investigation, potentially leading to the loss of vital links and the risk of the applicant influencing witnesses and tampering with evidence. Given the gravity of the offence, the learned APP submits that the present situation does not warrant the grant of pre-arrest bail.

5. This Court has given anxious consideration to the rival contentions canvassed across the Bar and perused the records.

6. It is a settled position in law that granting pre-arrest bail is an extraordinary power. While regular bail is generally considered the norm, the same principle does not apply to anticipatory bail. Considering each case's specific circumstances, the Court must exercise careful and prudent discretion when deciding whether to grant anticipatory bail. There is no straitjacket formula. Caution is necessary, as granting protection in serious cases could potentially hinder investigation or lead to a miscarriage of justice by allowing tampering with evidence. A profitable reference in this regard must be made to the Hon'ble Supreme Court's decision in *Srikant Upadhyay Vs State of Bihar, 2024 SCC OnLine SC 282.*

7. Upon perusing the records, it appears that the informant,

holder of a joint Axis Bank account with his mother, was induced by a fraudulent SMS to access a counterfeit banking website. This deception led to an unauthorised debit of Rs.4,98,500/- from the said account, even though the OTP was not disclosed. *Prima facie,* there is sufficient material to infer that the applicant received and benefited from the funds in question. It appears that the funds were used to settle outstanding credit card debts. Furthermore, the present FIR was registered on 31 August 2024, and the Sessions Court refused the applicant's request for pre-arrest bail on 23 December 2024. The applicant has approached this Court seeking anticipatory bail only on 12 February 2025. Since the FIR was registered, the applicant has remained unavailable for investigation. Notably, the applicant has criminal antecedents of a similar nature. In cases of this nature, the custodial interrogation of the applicant is crucial to unravel the full extent of the alleged fraud and to identify the individuals involved. The investigation is still in its early stages, and several key aspects remain to be discovered. There also appears to be a strong likelihood that other victims, similarly placed as the informant, may come forward as the investigation unfolds. At this juncture, granting the applicant the relief of anticipatory bail would risk obstructing or compromising the integrity and efficacy of the investigation.

8. Given the above, this Court finds no justifiable reason to exercise its discretionary powers in favour of the applicant. As a result, the present application for pre-arrest bail stands rejected.

(R.N. Laddha, J.)