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

**ANTICIPATORY BAIL APPLICATION NO. 607 OF 2025**

SRINDER PAL SINGH ARNEJA ...APPLICANT
VS
STATE OF MAHARASHTRA ...RESPONDENT

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Adv. Saurish Shetye a/w Dipen Furia i/b M/s Shah & Furia Associates for the Applicant.
Adv. Avinash A. Naik, APP for the State.
Adv. Anand Mishra a/w Santosh Saroj for the Intervener/Complainant.
PSI Akshy Vanave, Samta Nagar Police Station.

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**CORAM : RAJESH S. PATIL, J.**
**DATED : MARCH 13, 2025**

**P.C.:**

1. This application is filed under Section 482 of Bharatiya Nagarik Surakhsa Sanhita, 2023 for seeking anticipatory bail in the event of arrest of the applicant at the hands of Samta Nagar Police Station in C. R. No. 28 of 2025 for the offences punishable under Section 406 and 420 r/w Section 34 of the Indian Penal Code.

2. In the FIR, it has been alleged that the present applicant along with the co-accused with a common intention with the purpose of defrauding the informant, prepared bogus document for the sale of the flat of the informant and on the basis of the same, stated that they will arrange for a bank loan. The informant was made to sign certain documents and it was shown that the informant has taken a loan from

financial institute amounting to Rs.73,60,461/-. An agreement of sale was also entered into. The amount of Rs.59,75,057/- was transferred in the account of the first informant on 7 June, 2016 and thereafter, i.e. on very next date on 8 June 2016, an amount of Rs.59,75,057/- was transferred in the account of the present applicant/accused no.2. It is alleged that certain blank cheques were taken from the first informant so also, signature of the first informant fraudulently obtained on certain form of RTGS. It was promised that the said money of Rs.59,75,057/- would be returned back to the informant. However, the money was not returned back, and in fact, the informant had to pay a huge sum of money to the person to whom it was shown as agreement of sale was entered into in order to retain his possession of his own's flat. Hence, the FIR has been lodged with Samta Nagar Police Station.

3. The learned counsel for the applicant submits that the applicant is just an employee of accused no. 1, he has no role to play in the crime. He is a driver cum clerk of accused no. 1. He obeyed the order of his employer/ accused no. 1, who is absconding. Because of accused no. 1, there are other crimes registered against the present applicant. The applicant is ready to co-operate. There is no money lying in the bank account of the present applicant as the money which came in his account has been returned back to accused no. 1. The custody of the present applicant is not necessary. The applicant was not able to

comply with the conditions imposed by Sessions Court in ABA filed in earlier crime, since the FIR in the present crime is registered and there is apprehension of arrest. The applicant relied upon the following three judgments.

- *(i) Jay Shri and Anr vs. State of Rajasthan* [1]
- *(ii) Satishchandra Ratanlal Shah vs. State of Gujrat and Anr.*[2]
- *(iii) Mohd. Irfhan Hussain Ahmed Sheikh vs. State of Maharashtra* [3]

4. The learned APP and the learned counsel for the first informant opposed the present application. It is submitted that the applicant is in hand and glows with the accused no. 1. Apart from the present crime registered against the applicant, as of now, at least two more crimes are registered against the applicant, wherein it is alleged that similar kind of fraud is played by the applicant. One of those crime is registered against the present applicant, is with Samta Nagar Police Station, where the amount involved is Rs.1,21,00,000/-. The applicant was granted pre-arrest bail by the Sessions Court. However, the applicant did not comply with the conditions imposed by the Sessions Court. This is one more reason why the present anticipatory bail application should be rejected. There is one more crime registered

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1 [2024 SCC OnLine SC 54]
2 [(2019) 9 SCC 148]
3 [passed by this Court Bench at Nagpur in Cri. APP. (BA) NO.1166/2023].

against the present applicant with the Meghwadi Police Station, Mumbai where the amount involved is Rs.48,00,000/-. The custody of the present applicant will also be necessary because the accused no. 1 is absconding. The present applicant is aware about where about the absconding accused no.1. The present applicant did not co-operate inspite of the Sessions Court granted him pre-arrest bail in earlier FIR, by not attended the concerned police station.

5. I have heard both the sides and have gone through the documents on record. There is no dispute that there are two more antecedents reported against the present applicant. The applicant is not able to point out that why a huge sum of Rs.59,75,057/- was transferred in his account and on what basis, the said money was transferred by him to the account of accused no.1 and thereafter, where that money has been transferred. There is no answer from the present applicant the reason of depositing the amount belonging to the first informant into his account and thereafter, the monies being transferred. The present applicant has not disclosed where about the accused no. 1. The present applicant has flouted with the conditions by the Sessions Court in another Crime.

6. The Supreme Court in case of *Sumitha Pradeep vs. Arun Kumar C.K. and another* in paragraph 12 has held as under :-

> "………. In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. <u>There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail</u>. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline anticipatory bail. <u>However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail</u>."
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> (Emphasis supplied)

7. A similar view has been taken by the Supreme Court in the case of *the C.B.I. vs. Anil Sharma*[4], in paragraph 4 which reads as under:-

> "4. <u>We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favorable order under Section 438 of the Code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial</u> interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible Police Officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring would not conduct themselves as offenders."

4 AIR OnLine 1997 SC 797

(Emphasis supplied)

8. Taking into consideration the contents of FIR, the documents on record and considering the view taken by the Supreme Court in above judgments, according to me, no case is made out to grant protection to the present applicants.

9. As regards the order referred by the learned counsel for the applicant in the case of *Mohd. Irfhan Hussain Ahmed Sheikh* (supra) passed by the Single Judge of this Court wherein in paragraph no. 7 it has been held that the applicant therein was involved in the offence which shows a nature of economic offence and the charge-sheet was filed. It was further held that merely because there were criminal antecedents his liberty cannot be curtailed. The Single Judge of this Court has not considered the judgment of the Supreme Court in the case of *C.B.I. vs. Anil Sharma* (supra). Considering only the facts of that case, the order was passed by Single Judge. It was a matter regarding Section 439 of Cr.P.C. The charge-sheet was already filed. Therefore, the said order passed by the Single Judge of this Court is not helpful to the present applicant.

10. As regards the judgment referred by the applicant in the case of *Satishchandra Ratanlal Shah* (Supra), the same pertains to the quashing of FIR and charge-sheet. In paragraph no. 11 of this judgment, the Supreme Court held that the dispute arises out of a loan transaction.

The Supreme Court held that there is nothing either in the complaint or any material produced before them pointing out the fact that any property was entrusted which is dishonestly converted which satisfy the ingredients of 405 of IPC punishable under Section 406 of the IPC. Considering these facts, the Supreme Court has made observation. According to me, even this judgment does not help the present applicant since, in the present matter a large sum of money has transferred in the account of the present applicant and there is no answer on what basis such an huge amount has been transferred in his account.

11. The order referred by the applicant in the case of *Jay Shri* (supra) where the Supreme Court was dealing with an application of the informant to join as a party in the proceeding. While dealing with such an application a order has been passed whereby a reference has been made by the Supreme Court that the breach of contract does not amount to an offence under Section 420 of IPC. According to me, these are not the findings recorded by the Supreme Court in a judgment, the Supreme Court while dealing with an application for implementing party, has made certain observations in an order. In the present proceedings there is no contract between the present applicant and the informant and therefore, the order passed by the Supreme Court in *Jay Shri* (supra) will not helpful to the present applicant.

12. In view of the above, I am convinced that there is no merits in the present anticipatory bail application and the same is required to be rejected. Hence, **anticipatory bail application stand rejected**.

**(RAJESH S. PATIL, J.)**