IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 617/2025

YOGESH POPAT NAVALE ..APPLICANT
VS
STATE OF MAHARASHTRA ..RESPONDENT

Adv. S.S. Kazi for the applicant.
Adv. R. V. Uttarwar a/w. Adv. P. R. Thakur for the complainant.
Ms. Supriya Kak, APP for State.
PI Chetan More, Koregaon Park Police Station, Pune City.

CORAM : RAJESH S. PATIL, J.

DATE : APRIL 22, 2025.

P.C. :

1. This application is filed under Section 482 of the Bhartiya Nagarik Suraksha Sanhita, 2023 for seeking pre-arrest bail in connection with the First Information Report (FIR) No.10/2025 registered with the Koregaon Park Police Station, Pune City, for the offence punishable under Sections 316(2), 316(4), 318(1), 318(2), 318(4), 336(2), 340(2) of the Bhartiya Nyaya Sanhita, 2023.

2. On the basis of the complaint, an FIR has been lodged. The role of the present applicant has been specifically mentioned in the FIR.

3. The present applicant is an accountant, who claims to have been appointed by the father-in-law of the informant. The informant states that the informant runs various business belonging to him and his family members viz. Genesis Inc., Leo Construction, Paradise Estate and Paradise Realty. The present applicant was looking after the accounts of the firms belonging to the informant and his family members. Once he developed a rapport with the informant and his family members, he defrauded by creating an account in State Bank of India with a heading as "CBSE Tax". The applicant was having access to the Net banking being an accountant of the firm. Taking advantage of the same, he transferred approximately a sum of Rs.8,63,10,312/- into his account being an account with State Bank of India known as "CBSE Tax". It is also brought on record that the applicant, thereafter, invested these amounts in the properties and also in the share market multiple transactions of purchase of lands has been brought to the notice of the prosecution. After the complaints were lodged, the present applicant attended the office of the IO and on 1/4/2024, he agreed before the police that he will return a sum of Rs.2 crores within fifteen days to the informant. A written undertaking dated 4/10/2024 was handed over by the applicant to the police to that effect. The applicant handed over three cheques to the informant for the repayment. Those cheques were never presented before the bank as the present applicant promised that he would clear the entire payment. However, the same was never done.

4. The learned APP appearing for the State has also produced before me the summary of the amounts credited in the account of the present applicant from four firms of the informant, they included Genesis Inc., Leo Construction, Paradise Estate and Paradise Realty. From the statements produced, it can be seen that by an online transfer by NEFT in the year 2023-2024 a sum of Rs.4,52,08,530/- were transferred in the account of “CBSE Tax” (an account maintained by the present applicant). So also, a sum of Rs.1,14,85,868/- was transferred from the firm Leo Construction to the account of the “CBSE Tax”. Likewise, a sum of Rs.1,68,73,424/- from the account of the Paradise Estate was transferred to the account of the present applicant. A sum of Rs.1,27,42,490/- from the account of the Paradise Realty was transferred to the present applicant.

5. The learned counsel appearing for the complainant only for the purpose of showing how the present applicant has not only defrauded the informant and his family, but also the tax authorities has shown him TDS deduction made in the name of assessee – the present applicant. From the statement it can be seen that the payments which were made to one of the parties of the Genesis Inc. known as Vinay Kate being a sum of Rs.6000/- and Rs.1000/- for a payment made of Rs.30,000/- and Rs.50,000/-. The same was claimed by the present applicant as TDS deposited towards his account. Similar kind of entries can be seen. The present applicant claiming of TDS paid by the firms of the informant to various vendors/parties.

6. The fraud according to me, committed by the present applicant was brought in light only after the external auditor pointed out to the informant and the firms on 10/9/2024. Pursuant to which, an FIR has been lodged.

7. Considering the various entries being shown to me, I am satisfied that the physical presence of the applicant for interrogation is necessary for completion of the investigation. Moreover, the possibility of pressurizing and threatening witnesses and tampering with the evidence cannot be ruled out.

8. The Supreme Court in case of ***Sumitha Pradeep vs. Arun Kumar***

C.K. and another[1] in paragraph 12 has held as under :-

> "12........... 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. 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. 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. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail."

(Emphasis supplied)

9. A similar view has been taken by the Supreme Court in the case of the ***C.B.I. vs. Anil Sharma***[2], in paragraph 4 which reads as under:-

> "4. 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 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."

(Emphasis supplied)

1 (2022) 17 SCC 391
2 AIR OnLine 1997 SC 797

10. Taking into consideration the gravity of the offence committed by the present applicant and the law laid down by the Supreme Court as noted above, no case is made out to grant pre-arrest bail to the present applicant. **The anticipatory bail application of the applicant stands rejected and disposed of accordingly**.

(RAJESH S. PATIL, J.)