



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

ANTICIPATORY BAIL APPLICATION NO. 669/2025

VIJAY SINGH RAO

..APPLICANT

VS

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Ashish S. Gaikwad for applicant a/w. Adv. A. R. Rote, Adv. Bhavana Khichi-Natuskar.

Mr. Ajay S. Patil, APP for State.

Adv. Advait Tamhankar (through VC) a/w. Adv. Padmaja Malgaonkar for intervener.

API Mundhe, Malad Police Station.

CORAM : RAJESH S. PATIL, J.

DATE : MARCH 25, 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.881/2024 registered with the Malad Police Station, for the offence punishable under Sections 420, 406 Indian Penal Code.

2. In the complaint attached to the FIR specific allegations have been made against the present applicant. It is the case of the applicant that the applicant was in fact cheated by two persons by

name Vikram Singh and Jitu Rawal. The applicant had filed complaint with the L. T. Marg Police Station against the said persons Vikram Singh and Jitu Rawal. However, the L. T. Marg police station has not lodged an FIR to the complaint lodged by the applicant. Hence, the applicant had no option but to file proceeding under Section 156 (3) of the Code of Criminal Procedure. The said proceedings are still pending.

3. The present informant was well aware about situation of the applicant and even then proceeded further to lodge the FIR. Hence, the applicant filed the pre-arrest bail application with the Sessions Court at Dindoshi, Mumbai. By an order dated 18/2/2025, the earlier pre-arrest bail application of the applicant was rejected. Hence, the present pre-arrest bail application is filed.

4. The applicant had no intention to cheat the present informant. The applicant has not committed any kind of offence. He is following up with Vikram Singh and Jitu Rawal to recover gold which was handed over by the present applicant. In the report lodged by the present applicant, the police have recorded the statement of the witnesses. The present applicant is ready to cooperate with the investigation. There is no criminal antecedents reported against the

present applicant, hence, the custody of the present applicant is not necessary.

5. The learned APP appearing for the State and the learned counsel appearing for the intervener through video conferencing opposed the present anticipatory bail application. The learned APP submits that the IO had applied for house search for the present applicant, however, the applicant refused to cooperate with the investigation and the house was found locked when the police had been to the house. The same happened with the IO when the police arrived at the office address of the applicant. The same was locked.

6. I have heard the learned counsel for the applicant, the learned APP and the learned counsel for the intervener. I have also gone through the FIR and the documents on record.

7. The fact remains that the informant has handed over 4 kg.850 gms of 22 carat to the applicant. The applicant had assured that he will return 24 carat gold biscuits. As the said 24 carat gold biscuits were not handed over to the informant and according to the informant, the applicant, thereafter, avoiding to talk to the informant. Neither he was ready to give gold nor he was ready to hand over the price money of the said gold ornaments. The only contention of the

applicant is that he had supplied the gold ornaments to Mr. Vikram Singh and Jitu Rawal and they both have cheated the applicant. Accordingly, he has filed the complaint against them and since the FIR has not been lodged, he has filed proceedings under Section 156(3) of the Code of Criminal Procedure.

8. The fact remains that there are no such transaction between the informant and the applicant that the informant had supplied gold ornaments of 22 carat to the applicant nor he received 24 carat gold biscuits and in turn the applicant will hand over the gold ornaments to some third party who in turn will convert the gold ornaments into 24 carat gold biscuits and thereafter, they will hand over the gold biscuits to the informant. The applicant has not produced on record any such document. Therefore, according to me, the applicant will be liable to either to give back the gold ornaments if not gold biscuits of 24 carat or else pay the price money of the said gold ornaments.

9. The Supreme Court in case of *Sumitha Pradeep vs. Arun Kumar C.K. and another*¹ 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

1 (2022) 17 SCC 391

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)

10. 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)

11. Taking into consideration the FIR, the documents on record and considering the view taken by the Supreme Court in above

2 AIR OnLine 1997 SC 797

judgments, according to me, no case is made out to grant protection to the present applicant. **The anticipatory bail application stands rejected and disposed of accordingly.**

(RAJESH S. PATIL, J.)