



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

ANTICIPATORY BAIL APPLICATION NO. 706/2025

MEHUL KUWARJI GALA AND ORS

..APPLICANTS

VS

STATE OF MAHARASHTRA

..RESPONDENT

Mr. Amit Singh a/w. Ms. Anjali Chitta for applicants.

Ms. Pallavi N. Dabholkar, APP for State.

Mr. A. A. Singh i/b. Mr. Abhishek Gupta for intervener.

PSI Ritesh Mali, Vakola police station.

CORAM : RAJESH S. PATIL, J.

DATE : MARCH 12, 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.14/2025 registered with the Vakola Police Station, Mumbai, for the offence punishable under Section 406 read with Section 34 of the Indian Penal Code.

2. As per the FIR, the prosecution's case is that the applicants with a common intention are in the habit of purchasing clothes from the market and subsequently defrauding individuals by not making

payments. Similarly, from the present informant they purchased clothes worth Rs.21,19,612/- and did not make payment, therefore, committed criminal breach of trust, hence, the FIR was lodged.

3. Today when the matter was argued before me, the learned counsel for the applicants submits that to show their bonafide, the applicants do not deny that a payment of Rs.21,19,612/- is to be made to the informant, However, the applicants require at least six months time to make the payment. The learned counsel for the applicants submits that in order to show their bonafide the applicants will deposit a sum of Rs.2 lakhs within a week's time in this Court.

4. The learned APP submits that the present applicants are in habit of committing criminal breach of trust by accepting clothes from the parties and thereafter, not making the payment. She submits that there are criminal antecedents reported against all the applicants. A crime has been registered with Dadar Police Station wherein similar kind of tactics were used by the applicants of purchasing the clothes and then not making payment of Rs.53,29,598/-. Similarly, one more complaint has been filed against the present applicants of cheating with the Santacruz Police Station, Mumbai, where the present applicants have not paid Rs.15,71,655/-.

She submits that if the present applicants are granted time of six months, they will not pay the said amount and will prolong the matter once this Court protects them.

5. The learned counsel appearing for the informant submits that as far as the informant is concerned, a sum of Rs.21,19,612/- worth goods were accepted and the applicants were not making payment. The informant was defrauded. Similarly, as far as the second informant is concerned, a sum of Rs. 4,48,000/- has not been paid despite several requests being made to the applicants.

6. Taking into consideration the fact that there is no denial that the applicants are supposed to pay a sum of Rs.21,19,612/- and the fact that the said goods are in custody of the applicants. *Prima facie*, there is a acceptance of the crime by the applicants as they are seeking longer time to make payments. There are criminal antecedents reported against the applicants as shown to me by the learned APP in Dadar Police Station and Santacruz Police Station. A notice was issued to the applicants under Section 35(3) of the Bharatiya Nyaya Suraksha Sanhita, 2023, however, the applicants did not cooperate with the investigation. It appears that there is a pattern of fraudulent behaviour of the applicants, therefore, if they are

protected, there is a strong likelihood that they will repeat similar kind of crime with other persons. Therefore, according to me, as of now, pre-arrest bail should not be granted.

7. 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 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)

8. 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:-

1 (2022) 17 SCC 391

2 AIR OnLine 1997 SC 797

“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)

9. Taking into consideration the 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. **The anticipatory bail application stands rejected and disposed of accordingly.**

(RAJESH S. PATIL, J.)