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

**ANTICIPATORY BAIL APPLICATION NO. 715 OF 2025**

SONIYA VISHWANATH HATTI ...APPLICANT
vs.
STATE OF MAHARASHTRA AND ANR. ...RESPONDENTS

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Mr. Ram Upadhyay i/b Law Competere Consults, for the Applicant.

Mr. Anand S. Shalgaonkar, APP, for the Respondent-State.

Mr. Mahesh Ingale, PI, EOW, Kolhapur, present.

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**CORAM : RAJESH S. PATIL, J.**
**DATED : APRIL 22, 2025**

**P.C.:**

**1.** This application is filed by the applicant seeking pre-arrest bail in connection with the C.R. No. 1218 of 2023, registered with Shahupuri Police Station, Kolhapur, for the offences punishable under Sections 406, 420 r/w 34 of the Indian Penal Code and under Sections 3, 4 and 6 of the Maharashtra Protection of Interest of Depositors (in Financial Establishment) Act, 1999 (“MPID”).

**2.** Based on the complaint filed, an FIR has been lodged. The role of the present applicant has been specifically mentioned in the said FIR.

**3.** I have heard learned Counsel for the applicant and the learned APP and with their help I have gone through the documents including copy of the FIR, the documents pertaining to ROC, the statements of witnesses recorded by the Investigating Officer, including the statement of wife of Swapnil Matade (Accused No.2).

**4.** Though the Advocate appearing for the applicant has not admitted that the present applicant has a major role to play in the accused No.1-Company known as 'M/s. Fourx Wealth Solutions LLP'. However, from the documents produced before me i.e. ROC records names the present applicant and accused No.2-Swapnil Matade, as partners of accused No.1-Firm.

**5.** It is the case of the informant that based on the assurance given by the accused persons they have invested their hard earn money by way of NEFT and also by cash in the accused No.1-Company. The accused No.2 is also signed the document termed as "MOU", as a partner of the Firm of accused No.1 as regards the investment to be done. The accused No.2- Swapnil Matade is absconding. So also the present applicant, according to the Investigating Officer, is absconding. As per the learned APP, a notice was issued under Section 41A of the Criminal Procedure Code to the present applicant but she chose not to appear before the Investigating Officer for the purpose of investigation. A further letter from the Investigating Officer to the Superior also states that the applicant is not co-operating.

**6.** Mr. Upadhyay, learned Counsel for the applicant, has disputed the receipt of the letter by the applicant. The learned APP has relied upon the statements of the investors to show that the present applicant alongwith Swapnil Matade has siphoned off monies and is not reachable now. The learned Sessions Court has recorded in paragraph No. 14 of its order the present applicant and Swapnil Matade, sold off their private properties in order to repay the dues of the investors/depositors. It also further recorded that the applicant and Swapnil Matade raised money by way of availing personal loans as well as loan by hypothecating the gold in order to repay the dues of the investors. The statement of the wife of Swapnil Matade has been recorded by the Investigating Officer. She has in her statement named the present applicant, who alongwith her husband (Swapnil Matade) have taken over monies from the investors and are not now reachable. The statement of co-accused No.5- Prasad Sonake has been recorded. He also named the present applicant and Swapnil Matade as the persons, who were the Directors in the accused No.1-Firm. The complainant has also in his statement named the present applicant and Swapnil Matade as persons, who are handling the accounts of accused No.1-Firm. The statement of ICICI Bank has been procured by the Investigating Officer. The said statement also records various transactions entered into by the firm wherein the present applicant is involved. Therefore, the case of the applicant that she was just an employee would not hold much water, as there are documents on record to show that she was involved in day to day affairs of the accused No.1-Firm.

**7.** Mr. Upadhyay, learned Counsel for the applicant, relied upon the judgments of the Supreme Court in the case of ***Satender Kumar Antil vs. Central Bureau of Investigation and Anr.***[1] and ***Munawar vs. State of Madhya Pradesh & Ors.***[2]. Both the judgments are on the issue of Section 41A of the Cr. P.C. stating therein that it is a mandatory to issue such notice. In the present proceeding, the learned APP has shown the notice under Section 41A of the Cr.P.C. was issued to the present applicant. However, the present applicant chose not to attend the office of the Investigating Officer nor any reply was sent to the Investigating Officer.

**8.** As regards the Supreme Court's order passed in ***Sanjay Datt vs. State of Haryana***[3] whereupon by the Advocate appearing for the applicant relied upon. In my view, the said authority relied upon by the applicant is just an order and not a judgment. Further, the law is clear as far as the role of the partner is concerned. In the present proceeding, not one at least there are three statements made by the witnesses which includes the wife of Swapnil Matade (Accused No.2) which states that her husband and the present applicant are the persons, who are in

1 Misc.Appln.1849 of 2021 in SLP(Crl) No. 5191 of 2021.
2 Writ Petition (Criminal) No. 62 of 2021.
3 Criminal Appeal No. 11 of 2025

control of the affairs of the accused No.1-Firm. The co-accused has named the present applicant as a person who alongwith Swapnil Matade were running the show. This coupled with the fact that ROC records also shows only two persons as a partners i.e. Swapnil Matade and the present applicant. Therefore, at this stage, I don't have any doubt that the present applicant is an active participant in the business of the accused No.1-Firm.

**9.** Mr. Upadhyay, learned Counsel for the applicant, initially argued that the present applicant is just an employee of accused No.1. After the learned APP clarifying that the present applicant is a partner of the Firm. Mr. Upadhyay agreed with the learned APP that initially the present applicant was an employee and thereafter, she became a partner in the year 2021 of Accused No.1-Firm.

**10.** The Supreme Court in case of ***Sumitha Pradeep vs. Arun Kumar C.K. and another***[4] 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. <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

4 (2022) 17 SCC 391

> 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)

**11.** A similar view has been taken by the Supreme Court in the case of the ***C.B.I. vs. Anil Sharma***[5], 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)

**12.** Hence, **the Anticipatory Bail Application of the applicant stands rejected and disposed of accordingly**.

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

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5 AIR OnLine 1997 SC 797