

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.768/2025

SHIMONATHAN DANIEL NIRMAL

...APPLICANT

VS

STATE OF MAHARASHTRA

...RESPONDENT

...

Adv. Aasit Shaikh for the Applicant.

Adv. Supriya Kak, APP for the State.

PI. Mr. Jagdale, Hadpsar Police Station (I.O).

PSI A. R. Gandhele, Hadapsar Police Station.

...

CORAM : RAJESH S. PATIL, J.

DATED : MARCH 19, 2025

P.C.:

1. The applicant has filed the present application for pre-arrest bail under the provisions of Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

2. It is the case of the prosecution that on 9 November 2024 the first informant received WhatsApp message and asked him for part time job. The first informant was asked to like 10 links of hotels. The informant was directed to deposit sum of Rs. 4,000/- towards the said work. After the said amount was deposited, the informant was asked to deposit further amount. In all, the informant was cheated by an online fraud of Rs. 7,95,600/-. Hence, an FIR was lodged.

3. The learned counsel for the applicant submits that the applicant has not committed any kind of offence. In fact, the applicant has also been cheated. The applicant was told that certain amount will come to his account and they will be invested the said amount in to crypto currency. The applicant himself has lost monies from his account. The applicant has no direct connection with the crime. In fact, he could be a victim. A similar kind of complaint was lodge against the applicant at Bangalore. The Sessions Court at Bangalore has granted protection to the present applicant. No purpose would be served by arresting the present applicant, who has moved further in life and has joined another corporate at Ahmadabad and is happily married now. It is further submitted that there is no discovery to be made from the present applicant. He is ready to abide all the conditions imposed upon him. The monies was not directly credited in the account of the applicant.

4. The learned APP submits that if the present applicant submits that he has been cheated, he could have himself lodged a complaint with the police against the accused person. The silence of the present applicant shows that the applicant himself is trying to protect the other accused person. There are crime being registered against the present applicant in various Courts including one at Bangalore. A notice was issued to the present applicant by the concerned police station on

13 January 2025 under Section 35(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023. The applicant did not comply with this notice and only sent an E-mail and by RPAD reply dated 10 March 2025. The said reply tried to explain how the applicant was misled by unknown person who had approached him through WhatsApp through 'International Mobile Number' and lured him in to suppose work from home opportunity and directed him to provide bank account details and perform transactions in crypto currency via Binance App. She submitted that the custody of the present applicant would be necessary as the other accused persons are absconding.

5. I have heard counsel for both the sides and have considered the documents on record. The fact of the matter remains that even if it is presumed that the applicant was cheated and was lured to invest monies, there is no answer from the counsel for the applicant why monies from different accounts were coming into his personal account and if he was cheated like the first informant, why he did not take steps of lodging complaint against the person (unknown according to him) who cheated him. It appears that the applicant is not telling the truth and trying to hide the name of main accused person. This being a crypto currency issue and the applicant being in contact with the person on mobile number not based in this country, there appears to be more persons involved in this crime. Therefore, the custodial interrogation of

the applicant would be necessary.

6. The applicant relied upon the order dated 7 November 2023 passed by Single Judge of this Court in ABA No.3150/2023. Considering the facts involved in that proceeding where the applicant himself had invested large amount and the applicant had approached the police authority, therefore, the said applicant was protected. The order passed in ABA No. 3150/2023 is not the judgment. Therefore, there is no ratio laid down in the said order. So also, one has to see that the applicant in that proceeding, himself approached the police authority which is not the case in the present proceeding.

7. It seems to be a big financial scam which effects the economy of this country and if the accused is released on pre-arrest bail he is likely to tamper the prosecution evidence and is threat to the witnesses. I find no merits in the present anticipatory bail application to grant protection to the applicant. Hence, **anticipatory bail application stands rejected.**

(RAJESH S. PATIL, J.)