



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

ANTICIPATORY BAIL APPLICATION NO. 773/2025

VIJAY RAM ULVEKAR

..APPLICANT

VS

THE STATE OF MAHARASHTRA

..RESPONDENT

Mr. S. P. Hushing a/w. Mr. Sahil Ghule, Ms. Gitanjali Hirkar for
applicant.

Mr. Ajay S. Patil, APP for State.

API Devidas Dhole, Manpada Police Station.

CORAM : RAJESH S. PATIL, J.

DATE : MARCH 24, 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.162/2025
registered with the Manpada Police Station, Thane City, for the
offence punishable under Sections 316(2), 318(4) of the Bhartiya
Nyaya Sanhita, 2023.

2. It is the case of the prosecution that the applicant has obtained
an amount of Rs.49,63,000/- from the informant by executing sale
deed of two flats in the year 2019. However, the applicant neither

gave possession of flat nor returned the amount till today. The applicant cheated and committed criminal breach of trust. Hence, an FIR has been lodged.

3. The learned counsel for the applicant submitted that the applicant is innocent and has not committed any offence. The applicant has been falsely implicated in the present present crime with ulterior motive to harass him. There is inordinate delay in filing the complaint without explanation. There is no criminal antecedent reported against the applicant. Due to the accident of the applicant, the applicant could not complete the construction of building in time. The colour of criminal is given to the civil dispute. There is nothing to be recovered or discovered at the instance of the present applicant. The custodial interrogation of the applicant is not at all necessary. Hence, the present anticipatory bail application be allowed.

4. The learned APP appearing for the State states that the offence is serious in nature. There are specific allegation against the applicant that he has obtained an amount of Rs.49,63,000/- from the informant by executing sale deed of two flats in the year 2019, but the applicant neither given any possession of the flat nor returned any money to the informant. There are specific allegations in the FIR

against the applicant. Investigation is in progress. If the applicant is granted pre-arrest bail, there is every possibility of threatening the witnesses and tampering with the evidence. Therefore, it is prayed to reject the anticipatory bail application.

5. I have heard the learned counsel for the applicant and the learned APP for the State. I have also gone through the FIR and the documents on record.

6. There are specific allegations against the applicant that he has obtained an amount of Rs.49,63,000/- from the informant by executing sale deed of two flats in the year 2019 but the applicant has not given possession of the flats, nor has he returned the money thereby, the applicant cheated the informant and committed criminal breach of trust of huge amount. Offence is serious in nature. The applicant was served with notice under Section 35(3) of the BNSS Act, on 20/2/2025. The applicant did not cooperate with the police, instead filed pre-arrest bail application before the Sessions Court. The said pre-arrest bail application was rejected on 5/3/2025 by Sessions Court. If the applicant is granted pre-arrest bail, the possibility of tampering with the evidence and threatening the witnesses cannot be ruled. Considering the gravity of the offence committed by the

applicant, the physical presence of the applicant is necessary for the purpose of interrogation.

7. 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)

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:-

“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.

1 (2022) 17 SCC 391

2 AIR OnLine 1997 SC 797

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 contents of the FIR and the documents produced before me and the law laid down by the Supreme Court as noted above, **the anticipatory bail application of the applicant stands rejected and disposed of accordingly.**

(RAJESH S. PATIL, J.)