

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 836 OF 2025

Mohd. Asif Abdul Ajij Memon

..... Applicant

VERSUS

State of Maharashtra

..... Respondent

Mr. Ashish B. Jagtap for the Applicant.

Mr. Nitin B. Patil, A.P.P. for the State.

Mr. Brijesh Shukla for the First Informant/Complainant.

Mr. Nitin Kamble, P.S.I., Amboli Police Station present.

CORAM : RAJESH S. PATIL, J.

DATE : 2nd APRIL, 2025

P.C. :-

This application is filed for pre-arrest bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Crime No. 758/2023 dated 26th September, 2023 registered with Amboli Police Station, for the offence punishable under Sections 420, 409, 406, 464, 465, 467, 468, 471, 506 read with 34 of the Indian Penal Code.

2. This is the second anticipatory bail application filed by the

present applicant. By an order dated 11th March, 2024, the first pre-arrest bail application filed by the applicant was unconditionally withdrawn by the applicant when the Court had expressed its disinclination to grant the relief to the applicant.

3. Mr. Jagtap, the learned counsel appearing for the applicant submits that the second pre-arrest bail application has been filed since there is change in the circumstances. He submits that now the charge-sheet has been filed. Therefore, the present anticipatory bail application is maintainable. He submits that the applicant is the real estate agent. A sum of around of Rs.30 lacs was received in the account from 5th December, 2022 till January 2023 from Mr. Mohd. Iliyas Badranuddin Shaikh (first informant) and immediately on the instructions of the first informant, the entire amount was transferred to the account of Mr.Amir Khandwala and one more person. The present applicant has no business transaction with Mr.Amir Khandwala or with the first informant. Only believing the assurance given by the first informant, the amounts were transferred to the account of Mr.Amir Khandwala. He submits that the custody of the present applicant is not necessary. The applicant is ready to co-operate with the police.

4. The learned A.P.P. submits that there is no change in the circumstances, therefore, the second bail application is not maintainable. He submits that there is no explanation as far as how the applicant was receiving a sum of Rs.30 lacs from the first informant and thereafter transferring the same to the others. He submits that in order to complete the investigation, the custody of the present applicant is necessary.

5. The learned A.P.P. submits that there is one more antecedent against the present applicant.

6. I have heard learned counsel for both the sides and I have gone through the documents on record.

7. The Supreme Court in case of *Virupakshappa Goud & Anr. vs. The State of Karnataka & Anr. reported in (2017) 4 SCR 373*, has held that just because the charge-sheet is filed, that will not amount to change of circumstances for filing second pre-arrest application. The ratio laid down in the judgment is squarely applicable to the present application.

8. Apart from this, in the present proceedings, it is difficult for me to believe that the present applicant received within a span of less than two months a sum of Rs.30 lacs from the first informant and

thereafter the first informant distributed the said amount between one Mr.Amir Khandwala and one more person. The applicant was not able to prove that any kind of communication was given to him by the first informant for transferring the monies in the account of Mr.Amir Khandwala and one more person.

9. In such state of affairs, I am not inclined to grant any kind of protection. Hence, the **present anticipatory bail application is rejected.**

[RAJESH S. PATIL, J.]