IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 850 OF 2025

Vilas Laxman Panhalkar and Another ...APPLICANTS
vs.
State of Maharashtra and Another ...RESPONDENTS

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Mr. Nitin Patil a/w. Mr. Shantanu Kolhe, Advocate for the Applicant.
Mr. Amit Palkar, APP for Respondent No. 1.
Mr. Sarvajit Patil, for Respondent No. 2.

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CORAM : RAJESH S. PATIL, J.
DATED : APRIL 16, 2025

P.C.:

1. Present application has been filed by the applicants namely Vilas Panhalkar, Ujwala Panhalkar and Tejas Panhalkar under section 482 of the Bharatiya Nagarik Suraksha Sanhita (BNSS) for grant of anticipatory bail in connection with Crime No. 59/2025 registered with Wakad police station, Pune as they are having apprehension of their arrest for non-bailable offences punishable under sections 318(4), 316(2), 336(2), 336(3), 336(4), 338, 340(2), 351(3) read with 3(5) of the Bharatiya Nyaya Sanhita, 2023 (BNS).

2. Based on the complaint, an F.I.R. has been lodged. The role of the present applicants has been specifically mentioned in the said F.I.R.

3. On behalf of the applicants it is contended that the applicants have not committed any offence as alleged against them. They have not

participated in commission of the said offences. The applicants have not played any role in commission of the offences. They have been falsely implicated in the present crime. The allegations in the F.I.R are baseless and vague. The F.I.R has been preferred as an after thought and for hiding away the misdeeds of the informant and his family members. There is no recovery of any incriminating articles at the instance of the applicants. Therefore, the custodial interrogation of the applicants is not warranted.

4. It is further contended on behalf of the applicants that the dispute is of civil nature. The informant developed friendly relations with the applicants and thereafter time and again asked for financial help for his business from the applicants. Because of helping nature of the applicants, they assisted the informant. At the time of matrimonial dispute of the informant's family, the applicants helped the first informant with an amount of Rs. 20 lakhs for the purpose of alimony. Thereafter, the informant used to visit the house of the applicants. In the year 2019 the informant fraudulently induced the present applicants on the pretext of getting gold at cheap rate than the market rate and asked financial help from the applicants. The informant assured the applicants that the gold rate will rise in future and after availing profit he will share the profit with the applicants. The applicants also executed an Memorandum of Understanding (MOU).

5. It is the case of the informant that the informant was induced by the present applicants. Applicant/accused No. 1 is working in the bank and would manage to get the property in an auction sale on much less price than the market value. Accordingly, the property was identified and the amount to be paid to the bank was a sum of Rs. 90 lakhs. It was told to the informant that the sum of Rs. 50 lakhs can be arranged from obtaining loan from the bank and for the balance amount of Rs. 40 lakhs, Rs. 20 lakhs would be paid by the first informant and Rs. 20 lakhs would be managed by the applicants. Accordingly, the first informant paid a sum of Rs. 20 lakhs to the applicants. For obtaining loan of Rs. 50 lakhs, a sum of Rs. 62,500/- was paid by the first informant to the applicants. So also it was informed to the first informant that on the said property which was to be auctioned, there is an outstanding property tax of Rs. 3 lakhs. The said amount of Rs. 3 lakhs would be paid by the applicants. So also to deceive the first informant, the applicants went to the shop of the first informant and purchased jewelry of Rs. 4,36,000/-. The amount to be payable for the said jewelry, it was told to be adjusted with the future transaction. One more property was shown to be purchased from owner of the property Vaishali Mohite. The consideration of the said property was Rs. 31,50,000/-. The applicants showed the receipts of State Bank of India whereby, it was shown that applicant No. 2- Tejas had paid amount to

Vaishali Mohite, the owner of the property. On the said receipt, there is a rubber stamp of the bank. It is a case that the applicant No. 1- Vilas being working with the bank, managed to get rubber stamp on the receipt, so also managed to forge the receipts of the bank. In all a sum of Rs. 2,85,000/- was shown to be paid by applicant No. 2 - Tejas to the owner of the property Vaishali Mohite. In turn, the first informant was deceived to pay the amount of Rs. 8,25,000/-. So also the first informant was deceived to make further payment in the account of applicant No. 2 - Tejas. Accordingly, by an online transaction, a sum of Rs. 7 lakhs was paid by the brother of the first informant in the account of applicant No. 2 – Tejas. As per the investigating officer, the total amount of fraud involved is Rs. 76,18,800/-.

6. On behalf of the applicants, they heavily relied on the document which is termed “Memorandum of Understanding”. The said M.O.U. mentions about the payment of Rs. 1,25,00,000/- to be paid by the first informant to the applicants. It further mentions about the issuance of a cheque for the sum of Rs. 1,25,00,000/- in the name of applicant No. 1- Vilas. It is further argued on behalf of the applicants that the said cheque on presentation was dishonored. And in order to create a moonshine defence, on false ground, the present F.I.R has been lodged.

7. So far as the learned A.P.P and the first informant’s counsel is concerned, they have denied the execution of M.O.U. It is their case

that the said M.O.U. was a fraudulent document which was never signed by the first informant. Para-wise going through the M.O.U, I have found from the photocopy of the M.O.U. that the said M.O.U is not signed by the parties on each and every page to acknowledge the contents of the M.O.U. As regards the execution part of the M.O.U., it mentions about signature/thumb impression. There is no thumb impression though there is enough space for the parties to insert their thumb impression next to their signature. The signature has been disputed of the first informant on the said M.O.U. It is further pertinent to note that, according to the case of the applicants, the said M.O.U. was signed before a Notary public. The investigating officer has recorded the statement of Notary public who has categorically denied that the said M.O.U. was signed before him. So also the learned APP referred a C.D.R of mobile phone of the first informant. The date on which the stamp paper was purchased in the name of the first informant, the first informant's location is shown at Sangli. Therefore, it creates a doubt as though the stamp paper of M.O.U shows that the stamp paper was purchased by the first informant, how could the first informant purchase the stamp paper, if the first informant, was at Sangli. Therefore, it is difficult to believe that the stamp paper was purchased by the first informant.

8. It is also pertinent to note that the applicant No. 1 is a bank

employee due to which the rubber stamp and the documents of the bank were easily available to him. Therefore, the receipt produced by the applicant No. 1- Vilas which bears the rubber stamp of the bank also create a doubt about the same being official receipt.

9. Considering the overall contents of the F.I.R. and the documents on record, I am convinced that for the purpose of interrogation, the present applicants need not protected, since any kind of protection will hinder the investigation process.

10. 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. <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 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. <u>However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail</u>."

(Emphasis supplied)

1 (2022) 17 SCC 391

11. 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. 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. As regards the authority referred by the applicants of the Supreme Court in the case of ***Krishna Lal Chawla and Others vs. State of Uttar Pradesh and Anr.***[3]**,** the said proceeding were regarding the second F.I.R. In the present proceeding on the earlier occasion the F.I.R. was not lodged. A complaint was lodged and in order to convert it into an F.I.R, proceeding was initiated by the first informant. However, based on the opinion, the first informant withdrew the said proceeding and thereafter, he filed the present proceeding.

13. Considering the overall conduct of the present applicants which

2 AIR OnLine 1997 SC 797.
3 (2021) 5 SCC 435.

has been specifically mentioned in the F.I.R and the law laid down by the Supreme Court, I am of the view that for the purpose of interrogation, the custody of the present applicants is necessary. No case has been made out against the applicants for grant of pre-arrest anticipatory bail.

14. **The present anticipatory bail application stands rejected and disposed of accordingly**.

(RAJESH S. PATIL, J.)

15. At this stage, the applicants pleaded that the protection order granted earlier in favour of the applicants be continued for further period of two weeks, since the present applicants desire to challenge the order before the Supreme Court.

16. On the statement of the learned APP, the protection order granted earlier to continue for a further period of two weeks from today.

(RAJESH S. PATIL, J.)