

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

ANTICIPATORY BAIL APPLICATION NO. 877 OF 2025

ROHAN SUDEEP SHINDE

...APPLICANT

vs.

STATE OF MAHARASHTRA AND ANR.

...RESPONDENTS

...

Mr. Manish Bohra a/w Rishi Bhutta, Ashish Dubey, Parth Govilkar, Bhavi Kapoor, Ms. Sakshi Jha, for the Applicant.

Mr. Avinash Naik, APP, for the Respondent-State.

Mr. R. G. Gadgil i/b Tejashree Panchal, for the Complainant.

Mr. Vishal Gaikwad, API, MIDC Police Station, Mumbai present.

...

CORAM : RAJESH S. PATIL, J.

DATED : APRIL 22, 2025

P.C.:

1. This is an application for grant of pre-arrest bail in connection with C.R. No. 67 of 2025, registered in MIDC Police Station, Mumbai, for the offences punishable under Sections 406, 420 r/w section 34 of the Indian Penal Code.

2. Based on the complaint, an FIR has been lodged. In the FIR, the role of the present applicant has been specifically mentioned.

3. On behalf of the applicant, it is submitted that after receiving monies from the first informant and her family members, the applicant in fact, has repaid certain amounts to the first informant and the family

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members. At present, the balance is only Rs.65 lakhs, and the applicant is ready to repay the said amount if time of twelve weeks to sixteen weeks is granted. As far as Samit Vemula is concerned, a sum of Rs.29,91,600/- was paid to him. As far as Jaya Vemula is concerned, who is the first informant, an amount of Rs.17,95,000/- was paid to her. Therefore, though a sum of Rs.1,21,00,000/- was received from Vemula family, a sum of Rs. 48 lakhs has already been paid back to the Vemula Family. It is also pertinent to note that in the notice issued by the first informant, a total different case has been mentioned. The applicant is ready to co-operate with the Investigating Officer, custody of the present applicant is not necessary.

4. Learned APP submits that a notice under Section 35(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) was issued on 28/02/2025. However, the applicant chose not to appear and co-operate with the investigation.

5. The Reserve Bank of India ('RBI') has informed the Investigating Officer that the companies, through which the applicant is dealing with public at large, are not at all registered with the RBI as a Non-Banking Financial Company ('NBFC'). So also, the Security and Exchange Board of India ('SEBI') has informed the Investigating Officer that the entities through which the applicant is dealing are not registered with SEBI.

6. The balance amount payable to the first informant and her family members is much more than Rs. 65 lakhs. Apart from the first informant and her family members, as of today, three more victims have approached the Investigating Officer. All of them have paid monies to the present applicant by an online banking transfer. The Investigating Officer is already taking steps to invoke the provisions of the MPID Act. The custody of the present applicant would necessary in order to investigate the crime.

7. I have heard the counsel for the parties and have gone through all the documents produced before me including the FIR. The fact remains that the present applicant has not co-operated with the Investigating Officer, as the notice which was issued by the Investigating Officer under Section 35(3) of the BNSS the applicant chose not to attend the office of the Investigating Officer.

8. As far as copy of the notice, at page No.52 of the application, is concerned, the applicant's case is a very different kind of a case, put up by the first informant in the said notice at page No. 52. I have observed after going through the FIR and the documents on record in order to repay the amount to the first informant and her family members, the present applicant had issued a different cheques totally valuing to around Rs.50 lakhs. Those cheques when got dishonoured, a notice under Section 138 of the Negotiable Instruments Act ('NI Act')

was issued. Therefore, the notice which is a part of the record, at page No. 52, is a notice under Section 138 of the NI Act and therefore, the contents of the said are limited to the offence punishable under Section 138 of the NI Act.

9. Apart from the present applicant, there are few other victims who have approached the Investigating Officer with their complaints. Learned APP has shown me a chart which reflects that these victims have also paid monies through bank transfer to the present applicant. Learned APP submits that as per the instructions of the Investigating Officer that few other victims are approaching the Investigating Officer and they would be recording the statements of the victims in order to further investigation in the crime.

10. 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

1 (2022) 17 SCC 391

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*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. The RBI and also the SEBI have issued letters to the Investigating Officer informing that the two firms through which the present applicant is dealing with public at large, are not at all registered with the RBI as NBFC and also not registered with the SEBI. Therefore, I am of the view that the present applicant has no right in law to take investment from the general public and assure that he may be paying them high returns. Not even the principal amount is paid back to the informant or to her family members. The other victims are also

² AIR OnLine 1997 SC 797

approaching the Investigating Officer. Therefore, according to me, it is not a fit case to grant protection to the present applicant.

13. Therefore, the Anticipatory Bail Application stands rejected and disposed of accordingly.

(RAJESH S. PATIL, J.)