IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1016 OF 2025

CHANDRA PRAKASH PANDEY ….. APPLICANT
VERSUS
THE STATE OF MAHARASHTRA & ANR. ….. RESPONDENTS

Mr.M. Kocharekar, a/w. Mr.Shubham Kadam, Mr.Harshwardhan Patil i/b. Mr.Randhir Kale for the Applicant.

Ms.Supriya Kak, A.P.P. for the State.

Mr.Satish Maneshinde, Senior Advocate (Thr. V.C.) a/w. Ms.Anandini Fernandes, Ms.Namita Maneshinde, Mr.Nikhil Maneshinde for the Intervener.

Mr. C. B. D'mello, EOW, P.I., Unit – 10, Banking – II.

CORAM : RAJESH S. PATIL, J.

DATE : 24th APRIL, 2025

P.C. :-

Mr.Kocharekar, the learned counsel for the applicant has today tendered his apology stating that though on the last date an oral statement was made on instructions of his client that a sum of Rs.9.5 crores will be deposited in the account of the complainant (United Services Club), and out of the said amount, a sum of Rs.50 Lakhs will be deposited within a period of one week. However, the applicant has now instructed him that he will not able to deposit any amount with the United Services Club.

2. On the basis of the statement made by the learned counsel for the applicant, which was made on instructions of the client (who was present in Court), this Court had granted interim relief to the applicant.

3. This application is filed for pre-arrest bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Crime No. 21 of 2025 dated 25th February, 2025 registered with Cuffe Parade Police Station for the offences punishable under Sections 316(4), 318(4), 336(2), 336(3), 344, 61(2), 3(5) of the Bharatiya Nyaya Sanhita, 2023.

4. The applicant herein was appointed as an auditor of the club in 2020 and was paid a salary. It has been alleged in the FIR that huge amounts of money was transferred from the club to the accused no.1 (Smt.Varma) and from the bank account of Smt.Varma, the amount went to the Jyotirgamay Foundation (foundation is being run by the present applicant's family). The said accused no.1 - Smt.Varma from the siphon off monies had purchased huge properties, in her and her husband's name. From the external auditor appointed by the club, and on a complaint being received by the club, and meeting being held by the club with accused, it was found that there was

irregularities in the accounts of the club and the persons behind this is the present applicant, his family run foundation and the accused – Smt.Varma. The club thereafter issued a letter to the foundation to refund the amount of the club which is lying in their account. It is alleged that the amount of 11 Crores was being transferred to the account of the present applicant and his firm. Therefore, in the FIR lodged role of the present applicant is specifically mentioned.

5. The trail of the money requires to be found out as to, after the monies being received in the account of the present applicant, who has helped him in committing the crime and he being a chartered accountant, where the fund thereafter was transferred.

6. Mr. Kocharekar, the learned advocate for the applicant, submits that on the last date of the hearing, he had voluntarily made a statement that since the FIR alleges that an amount of Rs. 1.50 Crores has been refunded by the Jyotirgamay Foundation, it follows that, as per the FIR, out of the total Rs. 11 Crores, a balance of Rs. 9.50 Crores remains to be refunded. The applicant had expressed willingness to deposit a sum of Rs. 9.50 Crores with the complainant, United Services Club.

7. However, today, Mr. Kocharekar, upon instructions, submits that

the applicant no longer desires to deposit the said amount with the complainant, United Services Club. He argues that this is purely a civil transaction, and the custodial interrogation of the applicant is not necessary. The applicant is willing to cooperate with the investigating agency. It is further submitted that the applicant was working under the instructions of co-accused Ms. Varma and had prepared the accounts based on the directions provided by her. The applicant has not committed any fraud and reiterates his willingness to cooperate with the investigation.

8. The learned APP and Senior Advocate Mr. Satish Maneshinde have opposed the present pre-arrest bail application. It is submitted that the present applicant, along with Mrs. Varma, has allegedly embezzled approximately Rs. 77 Crores belonging to the United Services Club. Mrs. Varma, having access to the passwords of the club's bank accounts, is said to have transferred around Rs. 11 Crores from various accounts of the complainant to Jyotirgamay Foundation via transactions conducted using her mobile phone. It is not disputed that the Jyotirgamay Foundation is linked to the present applicant, a fact admitted during the earlier date of the present anticipatory bail application hearing. The said foundation subsequently transferred

funds to the accounts of the applicant and his firm. Therefore, custodial interrogation of the applicant is necessary to uncover the complete chain and mode of fund transfer from the club to the applicant and his entities.

9. I have heard both sides and considered the documents on record.

10. The present applicant is a Chartered Accountant who runs a firm named *C.P. Pandey & Company*. It was also admitted during the hearing that a firm named *Om Namah Shivay Enterprises* belongs to the present applicant. Organization Jyotirgamaya Foundation run by his family. Additionally, he manages the accounts of his family's HUF, which operates under the name *C.P. Pandey & Company Management Consultant*.

11. It is alleged that the co-accused, Mrs. Varma, siphoned off Rs. 77 Crores from the complainant's club. Major portion of these transactions occurred through bank transfers. Of these, Rs. 11 Crores were transferred to a organization called Jyotirgamay Foundation, which admitted, is run by the applicant's family members. The Jyotirgamay Foundation then transferred funds to *Om Namah Shivay Enterprises*, a proprietary concern of the present applicant. Thereafter,

Om Namah Shivay Enterprises transferred approximately Rs.7 Crores to various accounts, including the present applicant's personal account, his firm *C.P. Pandey & Company*, the family HUF, and also to accounts belonging to the applicant’s father and sister.

12. There are WhatsApp messages sent by the co-accused Mrs. Varma to the club on 27 January 2025, in which she admitted of transferring Rs.11 Crores, from various bank accounts to Jyotirgamay Foundation between 5 August 2024 and 9 October 2024. After the fraud came to light of the club, it was communicated to both the applicant and Mrs. Varma. The applicant then wrote a letter to the Jyotirgamay Foundation, directing it to return the funds to the complainant club. In compliance, Rs. 1.50 Crores was refunded. However, the balance amount still remains unpaid. Thereafter FIR is lodged.

13. Initially, it was made to appear as though the applicant had no connection with the Jyotirgamay Foundation. However, during the hearing, it was admitted that the applicant’s family members are directly associated with the foundation. Furthermore, the anticipatory bail application does not disclose this relationship, thereby suppressing a material fact.

14. As far as the antecedents are concerned it has not been disclosed in the present anticipatory bail application, nor a note as per the notice of this court has been furnished of the present applicant, to disclose about the antecedents of the present applicant. While arguing a photo copy of the news article was tendered by the Senior Advocate Mr. Satish Maneshinde on behalf of the complainant-club dated 12 December 2022 which mentioned about the GST having announced the arrest of present applicant -partner of the M/s. C.P. Pandey & Associates. On account of the trading by way of issuing fake invoices and passing on fraudulent Input Tax Credit involving GST of Rs.10.63 Crores. It is further stated in the article that on the basis of specific intelligence gathered by the GST officials it revealed that the present applicant has created numerous companies in the name of his family members. It indulged in issuance of invoice without actual supply of goods /services. It is further submitted that the present applicant was arrested on 10 December 2022 and he was remanded to judicial custody for 14 days.

15. 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

1 (2022) 17 SCC 391

> 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)

16. 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. <u>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</u> 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

2 AIR OnLine 1997 SC 797

> the task of disinterring would not conduct themselves as offenders.”

(Emphasis supplied)

17. Considering the view taken by the Supreme Court in above judgments, according to me, no case is made out to grant protection to the present applicants. **The anticipatory bail application stands rejected and disposed of accordingly**.

[RAJESH S. PATIL, J.]