IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1048 OF 2025

Pawan Amar Mutreja ….Applicant
Vs.
State of Maharashtra & Anr. ….Respondents

Mr. Rahul Moghe i/by Kalyani Rathod for the Applicant.
Ms. Supriya Kak, APP for the State.
Mr. Chirag Sawant for Respondent No.2.
Mr. Omase, PSI, Vile Parle Police Station is present.

CORAM : ADVAIT M. SETHNA, J.
RESERVED ON : 14 MAY 2025
PRONOUNCED ON : 16 MAY 2025

ORDER:-

1. This is an application for anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("**BNS**") in connection with C.R. No.142 of 2025 dated 14 April 2025, registered with Vile Parle Police Station, Mumbai. FIR dated 14 April 2025 at 21.40 hours was registered under Sections 318(4), 316(2) and 61(1) of the BNS on the basis of the complaint of the complainant-respondent no.2 as stated in the FIR.

2. The applicant/accused no.1 i.e. Pawan Mutreja is a real estate agent for the last 20 years. The co-accused no.2 is one Paresh Shah and co-accused no.3 Prakash Vyas. The complainant one Mr. Jayprakash Suru Shetty runs a restaurant in the name of Geeta located in Vile Parle (East), Mumbai.

3. The case of the prosecution in brief is that this applicant hatching a conspiracy with the co-accused nos.2 and 3 cheated the complainant by inducing

him to pay by misrepresentation an amount of Rs.82 lakhs i.e. Rs.50 lakhs by bank transfer and Rs.32 lakhs by cash, in the nature of illegal gratification for the purposes of giving it to some BMC officials for transferring the Geeta restaurant's ownership, in the name of the complainant.

4. Further, it is the case of the prosecution that different amounts totaling to Rs.9.5 lakhs on different dates in the months of February, 2024 to April, 2024 have been transferred by accused no.3 to the bank account of the applicant on the very day i.e. when the accused no.3 received such amount from the complainant. Such amount of Rs.9.5 lakhs is out of the total bank transfer amount of Rs.50 lakhs.

5. Also, a total amount of Rs.9,24,500/- was given in cash in tranches on different dates to this applicant by the complainant and immediately thereafter this applicant has deposited such amount in his own bank account, reflected in the entries in the bank statements on record. Such amount of Rs.9,24,500/- is out of the total cash amount of Rs.32 lakhs received from the complainant by the applicant.

6. As noted in the FIR and on the basis of the material collected during investigation, it would be clear that the accused and co-accused nos.2 and 3 were known to each other and they frequently visited the restaurant of the complainant. It is the applicant who made the initial move of approaching the complainant offering his help in getting the restaurant transferred under complainant's name, and getting the rent reduced by coordinating with some BMC officials, with the

assistance and involvement of accused nos.2 and 3. The amount of Rs.82 lakhs on such pretext, was taken from the complainant.

7. The applicant through his learned counsel Mr. Rahul Moghe has vehemently contested the case of the prosecution. He would at the very outset submit that the applicant has been framed. The applicant has absolutely no role to play, contrary to that noted in the FIR and is not the beneficiary of any amounts from the complainant. He would submit that the applicant did receive a total amount of Rs.11,45,034/- from the accused no.3 as a loan from 26 February 2024 until 24 April 2024. Out of this, Rs.5,94,011/- was repaid by the applicant to accused no.3 and the balance amount was used for his mother's cancer treatment. He would rely on the medical bills in support of his submission. These amounts have no connection with the amounts received by accused nos.2 and 3 from the complainant.

8. The applicant's case is that the applicant is a Real Estate Broker and came in contact with the complainant only in April 2024 as his name was suggested by Paresh Shah to the complainant who wanted to sell his Geeta restaurant after the resolution of dispute with BMC. Since the complainant contracted with Prakash Vyas to get his dispute resolved and get him the clear title, the complainant wanted the applicant to bring buyer for his restaurant. In August 2024, a meeting was held between a buyer named Kayum Khan and he offered 12.5 crores to purchase the said restaurant subject to clear title. Since, the dispute arose between Prakash Vyas and complainant, the complainant started pressuring the applicant to get some

token amount from Mr. Kayum Khan which will be utilised to clear the title as per understanding between the complainant and Prakash Vyas. The applicant refused to do so hence the complainant falsely implicated him.

9. It is further submitted that the applicant's mother is 73 years old diagnosed with breast cancer. There are some medical reports annexed to the anticipatory bail application recommending her to undergo a surgery in August, 2024 by an oncologist and documents from the Breach Candy Hospital dated 13 May 2025 recommending his mother's surgery. The applicant is the only person to take care of his mother after the demise of his father and the elder brother. The applicant is a divorcee. For all such reasons his application for anticipatory bail ought to be allowed.

10. I have heard the parties at length and with their assistance perused the record. At the very outset before delving into the merits some background is necessary. The applicant moved a precipe for taking the application urgently on the production board on 13 May 2025, mainly on the ground that his mother suffering from cancer and has to undergo a surgery. However, arguments were advanced on merits on 13 May 2025. During the course of hearing it was prima facie felt that the applicant may not have a case for interfering at this stage of the investigation. It is on this backdrop that the present proceedings were adjourned to 14 May 2025 to enable learned APP to take instructions on the applicant's plea of his mother being not in good health as also to enable the applicant to consider his position on the present application. Surprisingly, a submission was made on behalf of the applicant,

that he should be permitted to withdraw the precipe and the application be adjourned and placed for further consideration before the regular Court, despite the fact that these proceedings were argued substantially and after much of judicial time being spent by the Vacation Court. In my opinion such conduct of a litigant who is seeking an anticipatory bail is not expected of a bonafide litigant. This would amount to chance taking with the Court which is not an acceptable situation by any standards. Accordingly, such request was thus refused by the Court. On 14 May 2025, parties were again heard at length on this application including taking on record and considering the additional documents which the learned counsel for the applicant chose to rely on. Pursuant to such detailed hearing, the proceedings were adjourned on 16 May 2025 for passing orders. In these circumstances, the judicial requirement would be to take the application to its logical conclusion.

11. Firstly, it may be noted that the receipt of amount of Rs.82 lakhs as received by the accused nos.2 and 3 from the complainant is not disputed. It is the prosecution's case that from the said amount of Rs.82 lakhs, an amount of Rs.9.50 lakhs was transferred to the applicant by way of bank transfer and an amount of Rs.9.25 lakhs in cash was received by the applicant. To this, the applicant would content that the amount of Rs.11,45,034/- duly received by the applicant from accused no.3 is in the nature of loan in the above facts and circumstances. This appears to be doubtful and an afterthought, as there is no document in regard to such loan placed on record by the applicant and/or any material to buttress such submission to be so believed. There are amounts which are received in bank account

of the applicant from accused no.3 as well as in cash which the applicant does not dispute. This aspect requires to be investigated as to whether it has a connection with the amount of Rs.82 lakhs paid by the complainant to the accused persons by interrogating the applicant. The material on record including certain WhatsApp chats which are exhibited at pages 91 and 92 of the Anticipatory Bail Application would clearly reveal that the applicant was very much aware and a party to the MOU dated 22 January 2025 referred to therein to be executed between the accused no.3 and the complainant in regard to the transaction in question. This would belie the case of the applicant that he is not concerned at all with the accused nos.2 and 3. According to the prosecution, one of the accused is absconding and the bail application of another is pending.

12. The conduct of the applicant is noteworthy. There are six criminal complaints/proceedings against him and that too in offences relating to Sections 420, 467 etc. similar to that in the present proceedings. A perusal of the antecedents would show that the applicant is adopting a similar *modus operandi* of habitually, of entering into such dubious transactions. These would prima facie demonstrate that today the complainant is a victim of such conspiracy hatched by the accused persons in the present CR. Tomorrow there may be someone else. Therefore, on the basis of such antecedents, it would be travesty of justice if the contentions of the applicant are accepted and custodial interrogation of the applicant is stalled or prevented.

13. The medical reports submitted by the applicant, the latest being dated

13 May 2025 indicates some overwriting to show that she has been advised surgery *"on an urgent basis"* contrary to the earlier finding that she was recommended surgery in August, 2024 but nothing happened since then as rightly pointed out by Ms. Kak, learned APP for State. Thus, this ground of the applicant doses not inspire confidence.

14. The learned APP for the prosecution submitted a panchanama and transcript of the voice recording of conversation between the applicant and the complainant's daughter, where this applicant has been demanding money from her, for bribing BMC officials which is apparent from such material. Though the applicant would not agree, but the fact that there were conversations between the daughter of the complainant and the applicant is not disputed. Such material would *prima facie* indicate an attempt on part of the applicant to influence the prospective witnesses, which is legally impermissible and to be deprecated.

15. The prosecution has consistently submitted that here is an applicant, who has never cooperated with the investigation. As the case relates to conspiracy it is difficult to attribute a specific role to every person at this stage. The prosecution goes on record to submit that the applicant is not even present/residing at the present address as stated in the verification clause of the Anticipatory Bail Application as he was not found there. The applicant, except for bald denial, has no tenable justification. The prosecution's apprehension that this applicant may flee from justice cannot be summarily dismissed in the given facts and circumstances. All of this goes to show that applicant has not approached the court with clean

hands which is the sine qua non, equally so in an application for pre arrest bail.

16. There is also substance in the submission of the learned counsel for the complainant that a 76 years old senior citizen is left completely high and dry of his savings and hard earned money at the mercy of such dubious design and *modus operandi* adopted by the accused persons acting in cahoots with one another for illegal gains. In this context, in my prima facie view, the complaint has merit for which the applicant may have to be interrogated for effective and appropriate investigation as the law would mandate.

17. At this stage, it is apposite to refer to a judgment of the Supreme Court in the case of ***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr.***[1] wherein paragraph 12 it is held thus:-

> *"12. We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like Pocso and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. 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*

1. (2022) SCC OnLine SC 1529

> *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."*

Similar is the ratio in the decision of the Supreme Court in ***CBI Vs. Anil Sharma***[2], paragraph 4 of which reads thus:-

> *"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."*
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> **(emphasis supplied)**

Considering the above, in my view, there is no case made out by the applicant for the grant of anticipatory bail. There is no reason to interfere in the process of investigation and put breaks on the wheels of investigation as the law would not permit the Court to take such approach in the given facts and circumstances. In such backdrop, given the conduct of the applicant as noted above, custodial interrogation of the applicant in the peculiar facts and circumstances cannot be ruled out to unearth the truth and to go to the root of the matter.

18. The learned counsel for the applicant has placed reliance on judgments in the case of ***Bhadresh Bipinbhai Sheth Vs. State of Gujarat & Anr.***[3];

2. 1997 AIR SC 3806

3 (2016) 1 SCC 152

Vishal @ Janglya Sham Satpute Vs. The State of Maharashtra[4]; ***Pravin Digambarrao Jadhav Vs. The State of Maharashtra***[5] and ***Gajanan Pandharinath Marne Vs. The State of Maharashtra***[6]. In this regard the law is quite settled. It is equally trite law that there cannot be any straight jacket formula to be applied in matters of bail/anticipatory bail which would wholly depend on the facts and circumstances of each case. In my view, considering this well settled legal position, the judgments cited by the learned counsel for the applicant cannot be read peace meal and if read in the entirety such decisions will clearly not apply to the factual conspectus of the present proceedings.

19. In light of the forgoing discussion, I see no merit in the Anticipatory Bail Application and accordingly, I pass the following order:-

ORDER

(i) The Anticipatory Bail Application is Rejected.

(ii) Interim Applications, if any, are also dismissed.

[ADVAIT M. SETHNA, J.]

4 Order dated 21 December 2022 passed by this Court in ABA No.3557 of 2022
5 Order dated 8 March 2023 passed by this Court in ABA No.214 of 2023
6 Order dated 13 July 2022 passed by this Court in ABA No.3053 of 2021