AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1492 OF 2025

Vikas Vishwanath Kapoor … Applicant
V/s.
The State of Maharashtra … Respondent

WITH
INTERIM APPLICATION NO.2579 OF 2025
IN
ANTICIPATORY BAIL APPLICATION NO.1492 OF 2025

Mohan Rocky Springwater
Breweries Private Limited … Applicant
In the matter between
Vikas Vishwanath Kapoor … Applicant
V/s.
The State of Maharashtra … Respondent

ATUL GANESH KULKARNI
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Date: 2025.09.17 18:26:24 +0530

Mr. Ganesh Gupta with Mr. Sahil Ghorpade, Ms. Priyanka Rathod, Mr. Madan Khansole, and Mr. Surya Gupta i/by G.G. Legal Associates for the applicant.

Mrs. Rajashree V. Newton for the respondent-State.

Mr. Arshad Shaikh, Senior Advocate with Mr. Ranjit A. Agashe, Mr. Rajendra Jain, Vinsha Acharya, Mr. Pranil Lahigade, and Mr. Aniket Pardeshi i/by Ms. Namrata A. Agashe for the intervener/applicant in IA/2579/2025.

Mr. Abhijit B. Vharamble, PSI, Khopoli Police Station, Raigad, is present.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 17, 2025

P.C.:

1. The applicant, apprehending arrest in connection with Crime Register No.72 of 2025 registered with Khopoli Police Station, District Raigad, for offences punishable under Sections 316(4) and 3(5) of the Bhartiya Nyaya Sanhita, 2023, has approached this Court seeking pre-arrest bail under Section 482 of the Bhartiya Nagarik Suraksha Sanhita, 2023.

2. The prosecution case is that the informant is working as General Manager (Manufacturing) in Mohan Rocky Springwater Breweries Ltd. Since 2018, the present applicant is serving as General Manager (Finance) in the same company and is responsible for handling financial transactions. The company's bank account is maintained in ICICI Bank, Khopoli Branch, and the applicant's mobile number is linked with the said account. Before any payment, the applicant used to prepare a list of payments and forward it to the company's Managing Director, Mr. Vinay Mohan, on WhatsApp for approval. Upon receiving approval, the applicant used to process the payments online.

3. It is alleged that on 8 January 2025, one unknown person contacted the applicant through WhatsApp, claiming to be Mr. Vinay Mohan, Managing Director, and asked him to save the said mobile number. Between 9 January 2025 and 17 January 2025, the unknown person, impersonating Mr. Vinay Mohan, instructed the applicant to transfer money. Without verifying the identity, the applicant transferred a total amount of Rs.5,50,00,000/- to various bank accounts. On this basis, the FIR came to be lodged.

4. Learned Advocate for the applicant submitted that as per FIR, the allegation is that between 9 January 2025 and 17 January 2025, the applicant transferred Rs.5.50 crore to different accounts from the company's account. He submitted that the applicant acted on instructions of an unknown person who impersonated Mr. Vinay Mohan on WhatsApp. Learned Advocate invited attention to WhatsApp chats between the applicant and Mr. Vinay Mohan, and pointed out that on 10 January 2025, the applicant forwarded two statements showing advances of Rs.60 lakh and Rs.1.26 crore, which were specifically approved by Mr. Vinay Mohan. Again, on 13 January 2025, Mr. Vinay Mohan approved advance of Rs.1.12 crore, and on 15 January 2025, approved Rs.1.40 crore. Similarly, on 17 January 2025, Rs.45 lakh and Rs.65 lakh were approved by him. These approvals are reflected in the WhatsApp messages. The amounts were transferred through RTGS to accounts furnished by the imposter. Learned Advocate submitted that there is no material collected by the prosecution to show that the applicant had any connection with the imposter. After registration of the FIR, the concerned accounts were frozen and Rs.1.31 crore has been recovered. He pointed out that the charge-sheet has already been filed and no incriminating material has surfaced against the applicant. The FIR itself was lodged after three months, which shows that the company was aware of online fraud. He submitted that the interim protection granted by this Court deserves continuation.

5. Per contra, Mr. Arshad Shaikh, learned Senior Advocate for the intervener, submitted that what was approved by Mr. Vinay

Mohan on 9 January 2025 was only payment to Yongenyak Konyak Enterprises, details of which were furnished by him to the applicant. He argued that under the guise of sending the money to Yongenyak Konyak Enterprises, the applicant diverted Rs.5.50 crore to a bank account in Nagaland, bypassing the company's established protocol. According to him, approval of the informant was obtained only after the transfers were effected. He submitted that the applicant failed to explain why he did not contact Mr. Vinay Mohan on his original phone number, which was active throughout the period. He further pointed out that there are 25 cases pending against the applicant in Gujarat under Section 138 of the Negotiable Instruments Act, 1881. He also submitted that the applicant's residence near the company is on tenancy basis, which makes him a flight risk.

6. Learned APP also opposed the application. She submitted that the applicant did not obtain proper permission from the Managing Director before effecting the transfers. The usual practice required prior consent of the Managing Director, which was not followed. This indicates applicant's involvement in the offence. She submitted that although Rs.1.31 crore has been frozen, the remaining amount has been siphoned off to different bank accounts. She, therefore, contended that custodial interrogation of the applicant is necessary and prayed for rejection of the application for anticipatory bail.

7. I have considered the rival submissions and perused the record. The allegations show that the applicant, while working as General Manager (Finance), transferred amounts aggregating to

Rs.5.50 crore from the company's account to different bank accounts between 9 January 2025 and 17 January 2025. It is the prosecution's case that he did so without proper authority and in collusion with an imposter. The defence case is that he was misled by an unknown person impersonating as the Managing Director, and that the payments were made believing that the instructions were genuine.

8. The investigation is already complete and charge-sheet has been filed. No material is placed on record to indicate that the applicant had any nexus or connection with the imposter. The FIR was registered after about three months of the incident. This itself shows that the company was aware of the alleged fraud but took time before approaching the police.

9. The WhatsApp chats placed on record are of considerable importance. They reveal that during the relevant period the applicant was forwarding details of the proposed transactions to Mr. Vinay Mohan and was awaiting his approval before acting. For instance, on 10 January 2025, the applicant sent statements showing proposed advances of Rs.60 lakh and Rs.1.26 crore. These were approved by Mr. Vinay Mohan. Similarly, on 13 January 2025, an advance of Rs.1.12 crore was approved; on 15 January 2025, an advance of Rs.1.40 crore was approved; and on 17 January 2025, two advances of Rs.45 lakh and Rs.65 lakh were also approved. These approvals are not denied by the prosecution.

10. Such contemporaneous material supports the version of the applicant that he was acting under the belief that the approvals were genuine and that the instructions received were in continuation of the same. It is also relevant that there is no evidence on record to show that the applicant derived any personal gain from these transfers or that any part of the diverted funds was traced to him.

11. The prosecution has not produced material to indicate collusion between the applicant and the imposter. The bank accounts to which the money was transferred were found to be linked with third parties, and investigation has led to freezing of one such account with recovery of about Rs.1.31 crore. No material has surfaced to connect the applicant with those accounts.

12. Therefore, on the strength of the WhatsApp chats and absence of any incriminating recovery or link, the Court finds that the applicant's explanation that he acted under a bona fide belief is supported by record. The allegation that he wilfully diverted funds, without consent of the Managing Director, does not find prima facie support from the documentary evidence placed before this Court.

13. It is true that the prosecution and the intervener have contended that the applicant failed to follow the usual financial protocol of the company and did not directly confirm the instructions with Mr. Vinay Mohan on his official number. However, this Court cannot ignore the fact that the WhatsApp chats placed on record clearly demonstrate that the applicant was consistently forwarding details of the transactions to Mr. Vinay Mohan and was acting only after approvals were reflected in those messages. These messages form part of the contemporaneous record and cannot be brushed aside.

14. The allegation that the approvals were obtained post-facto is not borne out from the material collected during investigation. On the contrary, the chats show that approvals were communicated on the very dates when the transactions were processed. The prosecution has not produced any contrary document to establish that the applicant acted without any form of consent or approval.

15. It is also significant that the investigation has not revealed any monetary benefit accruing to the applicant. The bank accounts where the money was transferred were not in the name of the applicant, nor linked with him. An amount of Rs.1.31 crore has already been recovered by freezing of one such account. No evidence has been collected to show that the applicant shared in the proceeds of the fraud.

16. In such circumstances, the version of the applicant that he acted under a bona fide belief, considering the approvals received on WhatsApp, cannot be said to be without basis. The possibility of negligence or lack of diligence on part of the applicant may arise, but that by itself is insufficient to establish criminal intent or complicity at this stage.

17. Therefore, while the concern of the prosecution about non-adherence to protocol is noted, the balance of material presently available supports the applicant's defence rather than the allegation of deliberate involvement.

18. The amount of Rs.1.31 crore has already been recovered by freezing of the concerned account. Custodial interrogation of the applicant at this stage is not necessary. The apprehension of flight risk can be addressed by imposing strict conditions. The pendency of cases under Section 138 of the Negotiable Instruments Act does not directly affect the present matter, which concerns an allegation of cheating through online fraud.

19. It is well settled that anticipatory bail is to safeguard personal liberty, and should be denied only when custodial interrogation is indispensable or when there is material showing complicity of the accused. In the present case, neither of these conditions is made out. Therefore, interim protection earlier granted deserves to be confirmed.

20. Accordingly, the application is allowed.

21. In the event of arrest in connection with Crime Register No.72 of 2025 registered with Khopoli Police Station, District Raigad, for offences punishable under Sections 316(4) and 3(5) of the Bhartiya Nyaya Sanhita, 2023, the applicant shall be released on bail on executing a personal bond of Rs.50,000/- with one or more local sureties in the like amount, subject to the following conditions:

(i) The applicant shall attend the Investigating Officer as and when called, and cooperate with the investigation.

(ii) The applicant shall not directly or indirectly induce, threaten or promise any person acquainted with the facts of the case.

(iii) The applicant shall not leave India without prior permission of the Court.

(iv) The applicant shall furnish his residential address and contact number to the Investigating Officer and shall keep him informed of any change.

22. With these directions, the criminal revision application stands disposed of.

23. In view of this, the interim application stands disposed of.

(AMIT BORKAR, J.)