IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Anticipatory Bail Application No.1609 of 2025

Rupkumar Arunkumar Ganguly
Age-63 years, Occ: Nil,
R/o: 102/ DX Max, Sandalwood
Apartment, Nagasandra In front of
Rock Line Studio, Bangalore - 560073 … Applicant

versus

The State of Maharashtra
Through PI Nigadi Police Station,
Pune, CR No.28 of 2025 … Respondent

Mr Aniket Vagal, for the applicant.
Mr Yogesh Dabke, APP, for the respondent/ State.
API Ambarish Deshmukh, Nigadi Police Station, is present.

Coram: R.N. Laddha, J.
Date: 17 June 2025

P.C.:

By this application, the applicant seeks pre-arrest bail in connection with CR No.28 of 2025, registered at Nigadi Police Station, Pimpri-Chinchwad, Pune, for offences punishable under Sections 420, 406 and 468 read with 34 of the Indian Penal Code.

2. It is the case of the prosecution that in 2018, the

informant was introduced to the applicant's son, Dibyendu, the co-accused, through his brother-in-law, Hrishikesh, a resident of Chinchwad, Pune. At that time, Dibyendu and the informant's brother-in-law were living together as roommates while working in Mumbai. During the informant's interactions with Dibyendu, often in the presence of his wife and the applicant, Dibyendu shared details about his business, 'Jeet Air Cargo', located on Narayan Dhuru Street near Nagdevi, X lane in Mumbai. He assured the informant that if he invested Rs.10 lakhs in his cargo business, he would receive a return of Rs.15 lakhs over three years. Trusting this promise and encouraged by the friendship established between his brother-in-law and Dibyendu, the informant decided to invest in the venture.

3. In 2020, the informant transferred Rs.10 lakhs in two equal instalments on 6 October 2020 and 11 December 2020 from his DBS Bank in Singapore account to DBS Bank India Ltd account belonging to Dibyendu. In 2022, Dibyendu and his father/ the applicant approached the informant again seeking further investment. Trusting them due to their continued communication, the informant transferred Rs.4,04,000.88/- on 25 April 2022 to the same Indian Bank account. During this period, the informant's father-in-law also invested a substantial amount with the accused in a Hotel venture in Thailand.

During the informant's visit, he was shown an audit report of 'SOAL (Thai) Ltd Partnership', located at Jomtien Beach, Na Kluea, Bang Lamung District, Chon Buri, Thailand. The accused claimed to own 50% of the hotel business and promised to transfer 20% of his share to the informant upon an investment of Rs.12 lakhs. Acting on these assurances, Dibyendu prepared an investment agreement and provided the informant with a copy. The informant also received Rs.1 lakh on 7 November 2022 as a partial return on his earlier cargo investment. Subsequently, the informant transferred Rs.12,00,045.58/- in two instalments on 3 January 2023 and 6 January 2023 to the applicant's account. However, despite repeated follow-ups, the promised agreement was never registered. Attempts to reach the accused via phone were met with evasive responses, and eventually, they stopped answering altogether.

4. Upon visiting their last known residential address, the informant discovered the property had been sold. Additionally, the office of 'Jeet Air Cargo' was also found shut. Following this, the informant travelled to Thailand to visit the Hotel, only to discover that no such business existed at the mentioned location. According to the informant, all the accused deliberately and deceitfully induced him, under false pretences,

to invest in fictitious or misrepresented business ventures. They breached his trust by misusing the invested sum of Rs.26,00,050.46/-, provided fabricated audit reports and agreements, and exploited familial connections and personal rapport to defraud.

5. Mr. Aniket Vagal, the learned Counsel representing the applicant, asserts the applicant's innocence and emphasises that the primary allegations of cheating are directed at accused No.1. The applicant's involvement is purportedly limited to the receipt of alleged funds in his account. He contends that the applicant has been falsely implicated in this crime due to his relationship as the father of accused No.1, with the underlying motive of recovering funds from accused No.1 by pressuring him and his family members. The learned Counsel further submits that the investigation has concluded, and no material remains to be recovered from the applicant, rendering his custody unnecessary. He also highlights that there has been a delay in lodging the crime. Moreover, the charge sheet has been filed, and the co-accused have been granted bail. The applicant is willing to abide by any conditions this Court imposes if released on bail.

6. Mr Yogesh Dabke, the learned Additional Public Prosecutor representing the respondent/State, opposes the

applicant's request, emphasising the severity of the offence, as well as its careful planning and execution. The learned APP argues that the applicant is a direct beneficiary of the funds in question. He points out that a notice under Section 35(3) of the Bharatiya Nagrik Suraksha Sanhita, 2023, was issued to the applicant on 8 February 2025, requiring him to appear at the concerned Police Station on 10 February 2025. However, the applicant failed to show up or assist with the investigation. A non-bailable warrant is also issued against him. The applicant poses a flight risk and has deliberately concealed himself from the investigation.

7. This Court has given anxious consideration to the rival contentions canvassed across the Bar and perused the records.

8. It is a settled position in law that granting pre-arrest bail is an extraordinary power. While regular bail is generally considered the norm, the same principle does not apply to anticipatory bail. Considering each case's specific circumstances, the Court must exercise careful and prudent discretion when deciding whether to grant anticipatory bail. There is no straitjacket formula. Caution is necessary, as granting protection in serious cases could potentially hinder investigation or lead to a miscarriage of justice by allowing tampering with evidence. A profitable reference in this regard

must be made to the Hon'ble Supreme Court's decision in *Srikant Upadhyay v. State of Bihar*[1].

9. Upon a perusal of the records, and more particularly the contents of the complaint, it appears that specific and serious allegations have been levelled against the applicant. The applicant, in collusion with the co-accused Dibyendu, is alleged to have fraudulently induced the informant to part with a substantial amount of money under the pretext of investing in a lucrative business venture, promising significant monetary returns. Furthermore, the applicant and the co-accused are purported to have extended similar inducements to the informant's father-in-law, luring him into investing a large sum in an alleged hotel business situated in Thailand, by projecting high returns and business success. However, from the material available on record, it appears that the applicant and the co-accused failed to honor their commitments, thereby breaching the trust reposed in them by the informant and his family. The alleged conduct attributed to the applicant, thus, *prima facie* falls within the ambit of offences involving criminal breach of trust, cheating and conspiracy. The documentary evidence on record *prima facie* demonstrates that a considerable portion of the defrauded funds were credited directly into the applicant's

[1] 2024 SCC OnLine SC 282

bank account, making him a clear financial beneficiary of the alleged funds. Further, the material reveals that the applicant was operating the concerned bank account and had been effecting withdrawals from the said account, thereby negating the claim of the applicant that his son, the co-accused, was only operating his account. The investigation against the applicant is in progress, and custodial interrogation is considered necessary for tracing the money trail and unraveling the extent and *modus operandi* of the alleged fraud. It is also significant to note that the applicant has failed to comply with the notice issued under Section 35(3), having willfully abstained from appearing before the investigating officer.

10. In the totality of the circumstances, this Court is not inclined to extend the benefit of discretionary relief to the applicant at this stage. As a result, the application stands rejected.

(R.N. Laddha, J.)