AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1740 OF 2025

Savita Dashrath Babar … Applicant
V/s.
The State of Maharashtra … Respondent

Mr. Rakesh Patil for the applicant.

Mrs. Rajashree V. Newton, APP for respondent No.1-State.

Mr. Ashley D. Cusher for respondent No.2-victim.

Mr. Subhash Dige, API, Panvel Taluka Police Station, is present.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 17, 2025

P.C.:

1. The applicant has approached this Court seeking pre-arrest bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023. The applicant apprehends arrest in connection with Crime Register No. 102 of 2025 registered with New Panvel Police Station for the offence punishable under Section 318(4) of the Bharatiya Nyaya Sanhita, 2023.

2. As per the prosecution case, the complainant, Guljara Wali Ahmad Maniyar, was in financial difficulty and needed funds to start her son’s business. She, therefore, approached the applicant and requested a loan of Rs. 20 lakh. It is alleged that the applicant gave her only Rs. 12 lakh. The complainant further alleged that the applicant prepared a promissory note and obtained her signature without her knowledge or consent. It is further alleged that the applicant, by using the power of attorney executed in her favour by the complainant, executed a sale deed in her own name and took possession of the complainant's flat on the pretext that the loan amount was not repaid. Based on these allegations, the complainant lodged the FIR on 2 May 2025.

3. The learned Advocate for the applicant submitted that the applicant has been falsely implicated. He submitted that the applicant holds a valid money lending licence, which the Sessions Court failed to consider. According to him, the applicant had advanced a loan of Rs. 20 lakh to the complainant, for which the complainant executed a promissory note. As the complainant failed to repay the loan, the applicant executed a sale deed dated 10 May 2025 on the basis of the power of attorney lawfully executed in her favour. It was further submitted that the applicant is willing to return possession of the flat to the complainant if the complainant repays the outstanding amount. On these grounds, it is urged that the applicant deserves protection from arrest.

4. On the other hand, the learned Additional Public Prosecutor opposed the application. It was submitted that the complainant had purchased the flat in question for a consideration of Rs. 70,66,100/-, but the applicant executed a sale deed for only Rs. 30 lakh. The alleged payment of Rs. 30 lakh is not supported by any bank transaction or documentary proof. The applicant has also failed to produce her money lending licence. It was further submitted that the applicant misused the power of attorney, executed a sale deed in her own name, and took forcible possession of the flat. Though the original sale deed has been recovered, custodial interrogation of the applicant is necessary to investigate the financial transactions and recover related documents. The learned APP, therefore, prayed for rejection of the application.

5. Having considered the submissions of both sides and the material placed on record, the following reasons arise for rejecting the application.

6. The allegations in the FIR disclose that the applicant, under the guise of advancing a loan, obtained the complainant's signature on certain documents and later used the power of attorney to execute a sale deed in her own name. The sale deed appears to have been executed without due notice to the complainant, resulting in the transfer of ownership of her flat. These facts, taken at face value, disclose ingredients of a serious offence involving deceit and misuse of authority.

7. The applicant contends that she gave a loan of Rs. 20 lakh and that the complainant executed a promissory note. However, there is no satisfactory material to support this version. The alleged payment of Rs. 30 lakh to the complainant, as reflected in the sale deed, is also not substantiated by any proof of banking transaction or receipt of payment. In absence of such documentary evidence, the applicant's version cannot be accepted at this stage.

8. The investigation is at a crucial stage. The circumstances under which the sale deed came to be executed, the extent of money actually advanced, and the use of the power of attorney require detailed scrutiny. Custodial interrogation of the applicant is necessary to trace the money trail, verify financial records, and ascertain whether similar transactions have been entered into with others. Granting pre-arrest bail at this stage would seriously hamper the course of investigation.

9. The nature of the allegations reveals misuse of confidence and abuse of legal instruments to dispossess a woman of her property. Such conduct, if prima facie true, shows deliberate manipulation for wrongful gain. Granting anticipatory bail in such circumstances would send an incorrect signal and may affect public confidence in fair investigation.

10. The plea of readiness to return the flat if the complainant returns the money cannot be accepted as a ground for protection as applicant is not ready bear costs of stamp duty necessary for that purpose. Criminal liability arising from an act of deception cannot be settled through private negotiation at the cost of investigation.

11. Considering the gravity of allegations, the absence of supporting evidence to justify the applicant's version, and the necessity of custodial interrogation, this Court is not inclined to exercise discretion under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

12. The application for pre-arrest bail is, therefore, rejected.

(AMIT BORKAR, J.)