IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Anticipatory Bail Application No.2158 of 2025

Durga Nitishkumar Baldawa,
Age-30 years, Occupation-Business,
Residing at Lane No.6, Jaysingpur,
Taluka-Shirol, District- Kolhapur … Applicant

versus

The State of Maharashtra
(Through Nashik Road Police Station)
[C.R.No.45 of 2025] … Respondent

Mr Ajit M Savagave, for the applicant.
Mr SM Mangaonkar, APP, for the respondent/ State.
PSI JK Mali, Nashik Road Police Station, Nashik, is present.

Coram: R.N. Laddha, J.
Date: 4 August 2025.

P.C.:

This is an application for pre-arrest bail filed by the applicant, who apprehends arrest in CR No.45 of 2025, registered at Nashik Road Police Station, Nashik, for offences punishable under Sections 316(2) and 318(4) read with 3(5) of the Bharatiya Nyaya Sanhita, 2023.

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

collusion with the co-accused, gained the informant's trust and persuaded him, along with his friends and relatives, to invest in a trading scheme. They claimed that the investment would double within a year and promised a 15% return with daily profit payouts. Between December 2023 and March 2024, the informant and his associates transferred a total sum of Rs.2,31,00,000/- to accused No.1, the applicant's husband. Initially, the accused returned some of the invested monies, but later stopped all payments. When the informant tried to contact the accused, demanding return of the invested funds, the accused gave evasive responses and reneged on their promise, thereby leading to the present FIR.

3. Mr Ajit Savagave, the learned Counsel appearing on behalf of the applicant, asserting the applicant's innocence, contends that the applicant has been falsely implicated in the crime. He submits that since 2019, the relations between the applicant and accused No.1 have been strained. In 2021, the applicant preferred a domestic violence complaint against him. The applicant has been residing at her maternal home, and there was no occasion for her to visit Nashik and meet the informant. Even as per the contents of the FIR, all funds were transferred to accused No.1, and the applicant is not the beneficiary of the alleged funds. The learned Counsel further

submits that the applicant has no nexus with the alleged offence, and is ready to abide by any conditions imposed by this Court if granted pre-arrest bail.

4. On the other hand, Mr SM Mangaonkar, the learned Additional Public Prosecutor representing the respondent/ State, opposes the applicant's request for pre-arrest bail and contends that the offence is of a grave and serious nature. He submits that the applicant and the co-accused lured the informant and his associates to invest a substantial sum in a fraudulent trading scheme, promising to double the investment amount, a 15% return and daily payouts. While some initial payments were made, the accused later stopped all payments. When the informant sought the return of his funds, the accused provided evasive responses and failed to fulfil their financial obligations. The learned APP highlights that although accused No.1 received the funds from the informant and his associates, he subsequently transferred them to the applicant's bank account. The applicant is a direct beneficiary of the funds, and the witnesses implicate her in the crime. Furthermore, Mr Mangaonkar submits that since the registration of the crime on 25 January 2025 and despite the issuance of a notice under Section 35 of the BNSS, the applicant has remained unavailable for investigation. There are similarly circumstanced victims,

and the investigation is at a nascent stage. Granting pre-arrest bail to the applicant would lead to tampering with evidence and exerting influence on witnesses.

5. This Court has given anxious consideration to the rival contentions and perused the records.

6. 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 pre-arrest bail. There is no straitjacket formula. Caution is necessary, as granting protection in serious cases could hinder investigation or lead to a miscarriage of justice by allowing tampering with evidence. A profitable reference in this regard can be made to the decision of the Hon'ble Supreme Court in *Srikant Upadhyay Vs State of Bihar, 2024 SCC OnLine SC 282.*

7. In the present case, the applicant, in conspiracy with the co-accused, is alleged to have orchestrated a fraudulent scheme under the guise of offering attractive returns to the unsuspecting investors. In furtherance of this fraudulent design, the accused persons collected substantial sums of money from

the informant and other individuals. However, despite assurances, the invested amounts were neither returned nor accounted for, thereby amounting to a criminal breach of trust and cheating under the relevant provisions of the BNS.

8. From the material on record, it appears that the financial transactions in question predominantly reflect transfer of funds into the account of accused No.1, the applicant's husband. The applicant, however, has attempted to disassociate herself from the alleged offence by asserting that she shares a strained relationship with accused No.1 and has also initiated proceedings under the Protection of Women from Domestic Violence Act against him. Nevertheless, the case records reveals that, during the relevant period, the applicant received considerable amounts from accused No.1 in her bank account and utilised the said funds for her own benefit. Furthermore, the statements of key witnesses *prima facie* indicate the applicant's active involvement in the execution of the fraudulent scheme and her complicity in the misappropriation of investors funds.

9. It is also pertinent to note that multiple other individuals have come forward alleging financial loss at the hands of the applicant, indicating a wider pattern of deceit. The

investigation is currently at a nascent stage, and the custodial interrogation of the applicant is deemed necessary for effective unravelling of the modus operandi and for tracing the trail of misappropriated funds.

10. Considering the gravity of the offence, the magnitude of financial loss, and the potential impact on the integrity of the ongoing investigation, this Court is of the considered opinion that the applicant does not deserve the benefit of discretionary relief at this stage. Accordingly, the present anticipatory bail application stands rejected.

(R.N. Laddha, J.)