

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

Anticipatory Bail Application No.2255 of 2025

Aslam Husain Shaikh,
Age About: 50 years Male,
Inhabitant: Indian, Occupation: Worker
Residing at : Kala Talav, Makbara Building,
Kalyan West – 421301, Maharashtra ... Applicant

versus

The State of Maharashtra
(At the instance of Mahatma
Phule Police Station) ... Respondent

Ms Rukhsar Shaikh, i/b. Ebaad Shaikh, for the applicant.
Mr SM Mangaonkar, APP, for the respondent/ State.
PSI Sandeep Ramkrushna Mundhe, Mahatma Phule Chowk
Police Station, Kalyan, is present.

Coram: R.N. Laddha, J.
Date: 13 August 2025.

P.C.:

. By this application, the applicant seeks pre-arrest bail in connection with CR No.499 of 2025, registered at Mahatma Phule Chowk Police Station, Thane City, for offences punishable under 316(2) and 318(4) read with 3(5) of the Bharatiya Nyaya Sanhita, 2023.

2. According to the prosecution, the informant, a wholesale fruit trader, has been supplying muskmelons to the applicant and the co-accused for the past three years, always receiving timely payments. It is alleged that between 10 March 2024 and 11 April 2024, the informant procured muskmelons valued at Rs.25,23,931/- from fifteen local farmers and delivered them to the applicant and the co-accused. While the accused paid a partial amount of Rs.14,68,000/- through banking channels, they assured the informant that they would settle the remaining balance later. However, despite numerous follow-ups, the accused did not pay the outstanding sum of Rs.10,55,931/-, ultimately breaching the informant's trust and defrauding him.

3. Ms Rukhsar Shaikh, the learned Counsel appearing on behalf of the applicant, asserts the applicant's innocence and contends that the applicant has been falsely implicated in the crime. She argues that the present dispute is evidently of a civil nature. Instead of pursuing recourse through a civil forum, the informant has resorted to criminal proceedings in a questionable effort to exert undue pressure, thereby attempting to transform a civil dispute into a criminal one. The essential ingredients required for establishing offences under Sections 316(2) and 318(4) BNS are significantly lacking. The applicant possessed no intention to defraud or to induce the informant.

Furthermore, the learned Counsel submits that the transactions in question occurred in March and April 2024, yet the FIR was filed only on 10 May 2025, without providing any plausible explanation for the delay. Ms Shaikh further submits that the applicant expresses his readiness to comply with any conditions that this Court may impose should pre-arrest bail be granted.

4. 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 serious nature. He submits that the applicant, along with the co-accused, procured fruits from the informant and failed to repay the balance amount, thereby misappropriating the goods. The learned APP, on instructions, submits that the investigation is almost complete. However, he raises concerns about potential evidence tampering and witness influence if the applicant is released on pre-arrest bail.

5. Upon perusing the records, particularly the contents of the FIR, it appears that a commercial transaction exists between the applicant and the informant. *Prima facie*, the allegations do not reveal any elements of criminality. To constitute an offence of cheating, there must be more than a *prima facie* case; it must be shown that the accused had a fraudulent intention to deceive

the informant from the very beginning. Even if the applicant owed money to the informant, that fact alone does not constitute the offence of cheating unless it is shown that there was a dishonest intention at the outset. Notably, no civil proceedings have been instituted against the applicant, and there is a significant delay in lodging the FIR. The investigation is nearing completion, and the prosecution's apprehensions about potential evidence tampering and witness influence can be addressed by imposing appropriate conditions. In these circumstances, this Court is inclined to exercise its discretion in favour of the applicant. Hence, the following order:

ORDER

- (i) In the event of the applicant's arrest in connection with CR No.499 of 2025, registered at Mahatma Phule Chowk Police Station, Thane City, he shall be released on bail upon executing a PR Bond of Rs.25,000/- and furnishing one or more sureties in the like amount.
- (ii) The applicant, himself or through any other person, shall not tamper with the evidence or influence witnesses.
- (iii) The applicant shall attend the concerned Police Station as and when

required by the investigating officer.

6. The application stands disposed of accordingly.

(R.N. Laddha, J.)