

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

Anticipatory Bail Application No.2333 of 2025

Atul Kumar Mourya

Age: 25 yrs, Occ: Business,

R/at Room No.17, Wing No.26,

3rd Floor, Haware Nisarg, Pale-Budruk

Post-Padge, Tal-Panvel,

Dist.Raigad-410206

... Applicant/Accused.

Vs.

State of Maharashtra

through In-Charge Taloja Police

Station, Navi Mumbai-410208

(At the instance in CR No.98/2025) ... Respondent.

Mr Onkar Shinde a/w Vijay Shinde i/by Shinde & Co. for
the applicant.

Mr SV Walve, APP for the respondent / State.

Mr Aditya Mithe a/w Prachi Patel for the intervenor.

API Nilesh Yewale, Taloja Police Station, Navi Mumbai.

Coram : R.N.Laddha, J.

Date : 25 August 2025.

P.C. :

Heard the learned Counsel for the applicant, the
learned Counsel for the first informant and the learned
Additional Public Prosecutor for the respondent/State.

2. By this application, the applicant seeks pre-arrest bail

in connection with CR No.98 of 2025 registered at Taloja Police Station, Navi Mumbai, for the offences punishable under Sections 316(2) and 318(4) of the Bharatiya Nyaya Sanhita (BNS), 2023.

3. The prosecution case, in short, is that the informant, Ravikumar Mourya, employed as a godown keeper with Khyati Steel Corporation, received a phone call from the present applicant on 25/02/2025 at about 12.00 noon. The applicant instructed him to dispatch three coils weighing 36.960 MT (1 mm thickness), one coil weighing 4.630 MT (1.2 mm thickness), and one coil weighing 10.255 MT (1.5 mm thickness) to Kamlesh Enterprises, Badlapur. As the applicant had been lifting goods from the company for about 1½ years, the informant, relying upon such past dealings, immediately arranged for the goods to be loaded and dispatched.

4. It is further the prosecution case that, after 10–12 days, when the informant and the company's Marketing Manager, Mahesh Bohara, enquired about payment, the applicant assured them that the amount would be remitted through RTGS. However, instead of doing so, on

08/03/2025, the applicant issued two cheques of Rs.16,65,719/- and Rs.18,51,967/- respectively, both drawn on IDBI Bank in favour of Khyati Steel Corporation. The first cheque, upon presentation, was dishonoured.

5. Subsequently, when Bohara and the company's payment collector, Ganga Patel, attempted to contact the applicant, their calls went unanswered. The informant, therefore, became certain that the applicant had misappropriated company goods worth Rs.29,81,087/-. He accordingly lodged a detailed complaint at Taloja Police Station, upon which C.R.No.98/2025 was registered against the applicant under the relevant penal provisions.

6. Upon a careful perusal of the material on record, it *prima facie* emerges that the allegations set out in the FIR do not disclose the commission of any cognizable criminal offence. The tenor of the FIR *prima facie* indicates that the proceedings have, in effect, been converted into a mechanism for recovery of money, which is impermissible in law. In order to constitute the offence of cheating, there must be cogent material to demonstrate that the accused possessed a fraudulent or dishonest intention at the very

inception of the transaction. A mere failure to honour a promise or discharge a debt, without proof of such initial intent, does not constitute the offence of cheating. A plain reading of the FIR, therefore, fails to disclose the essential ingredients of any criminal offence, much less cheating. *Prima facie*, the dispute between the parties appears to be of a civil nature. Even assuming that certain sums of money are due and payable by the applicant to the complainant, the same would, at best, give rise to a civil liability. It is pertinent to note that the complainant has neither instituted any civil suit for recovery, nor invoked the penal provisions available under Section 138 of the Negotiable Instruments Act, 1881. The remedy of lodging an FIR for recovery of money in a purely civil dispute is clearly misconceived.

7. Furthermore, the record reveals that the investigation has already been concluded. The learned APP, upon instructions from the Investigating Officer present before this Court, has fairly conceded that the prosecution does not propose to seek custodial interrogation of the applicant.

8. In view of the aforesaid circumstances, this Court is satisfied that the applicant has made out a strong case for

grant of anticipatory bail. The apprehension of arrest, in a matter that is essentially civil in nature, is not justified in the absence of any demonstrable criminal intent or necessity for custodial interrogation. Accordingly, the application is allowed on the following terms :

- (i) In the event of the applicant's arrest in CR No.98 of 2025, registered at Taloja Police Station, the applicant 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 shall attend the concerned police station as and when required by the investigating officer.
- (iii) The applicant, either himself or through any other person, shall not indulge in any activities that may lead to evidence tampering or witness influence.

9. The application stands disposed of accordingly.

[R. N. Laddha, J.]