Shabnoor/AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2336 OF 2025

Manas Madhav Mandal
Age 43 years, Indian Inhabitant,
permanently residing at Room No.906,
Lexecon Plaza, Sector 29,
Nerul (East), Navi Mumbai 400 706 … Applicant

V/s.

1. **State of Maharashtra**,
   at the instance of LT Marg
   Police Station.
2. **Abhishek Ashokkumar Jain**,
   R/at B/095, Sunny Estate 03 CHS.,
   Sion, Trombay Road, Chembur,
   Mumbai 400 071 … Respondents

Mr. Sudeep Pasbola, Sr. Advocate a/w Mr. Ashish Shukla & Mr. Ayush Pasbola a/w Mr. Prachis Shukla & Mr. Aman Singh a/w Ms. Arusha Mishra, for the Applicant.

Ms. Shilpa K. Gajare, APP for the State – respondent No.1.

Mr. Kapil Dave for respondent No.2 - complainant.

Mr. Rahul Dhande, API, L.T. Marg Police Station, Mumbai, is present.

CORAM : AMIT BORKAR, J.

RESERVED ON : OCTOBER 14, 2025

PRONOUNCED ON : OCTOBER 16, 2025

P.C.:

1. By this application, the applicant seeks pre-arrest bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023. The applicant apprehends arrest in Crime Register No. 797 of 2025 registered with Lokmanya Tilak Marg Police Station for offences punishable under Sections 316(5) and 318(4) of the Bharatiya Nyaya Sanhita, 2023.

2. The prosecution case, in brief, is that the informant, Abhishek Ashokkumar Jain, lodged a report on 2 August 2025. He stated that he is engaged in the business of gold under the name 'Shri Saurabh Jewellers' at Chembur (East), Mumbai. His business involves supplying pure gold to artisans for manufacturing jewellery as per his designs.

3. The informant claims that he has known the applicant, Manas Mandal, since 2022. The applicant runs 'M.M. Jewellers' and operates a jewellery manufacturing unit in Mumbai. From 2023, the informant regularly entrusted gold to the applicant for making jewellery. The applicant returned the finished ornaments on time on each occasion and thereby gained the informant's confidence. It is alleged that between 2023 and 2025, the same practice continued smoothly until 9 June 2025, when the informant visited the applicant's office to collect jewellery and was told that the work was still under progress. On the next day, 10 June 2025, the applicant informed the informant that the gold had been handed to another artisan and that he would either return the jewellery or refund the equivalent value after receiving payment. On the same day, he issued two cheques of Rs.1 crore each, dated 10 June 2025 and 20 June 2025, drawn on D.B.S. Bank.

4. The informant suspected foul play and revisited the applicant's factory. The applicant allegedly handed over some documents and assured that he would transfer a property in the informant's name. On 26 June 2025, when questioned again, the applicant stated that he had suffered losses but reaffirmed his promise to either return the gold or execute a property transfer. Later, the applicant called the informant to his advocate Mr. Shukla's office, where he allegedly admitted receiving 2,689 grams of gold and promised to transfer his office premises to the informant. However, the advocate stated that the applicant was ready to pay only Rs.1 crore as a full settlement and provoked the informant to file a case, saying that the applicant would secure bail within a few months and the case would drag on for years. The informant claims to have recorded this conversation on his mobile phone. When the informant refused the settlement offer, he left the office. Based on these allegations, the FIR was registered.

5. Mr. Pasbola, learned Senior Advocate for the applicant, submitted that the applicant denies receiving the gold alleged in the FIR. He contended that there is no specific voucher showing delivery of 2,510.900 grams of 24-carat gold to the applicant. The vouchers produced by the informant show transactions far exceeding the disputed quantity, amounting to 35 kilograms of gold. He argued that the informant and the applicant's brother-in-law were in a business partnership, and the dispute arises out of their private financial dealings. He further submitted that the panchanama prepared by the investigating agency reflects selective recording, mentioning only a part where the applicant appears to admit receipt of 2,600 grams of gold. According to him, the full conversation shows that there was no such transaction. He further alleged that the informant entered his office in his absence, took the vault keys, and stole six blank cheques, thereafter fabricating a false case to extort money. Hence, he prayed for anticipatory bail.

6. In reply, Mr. Dave learned Advocate for the complainant argued that the applicant has misappropriated 2,689 grams of gold valued at Rs.2.66 crore, which remains unrecovered. He submitted that the documents on record include an acknowledgment signed by the applicant admitting receipt of gold. The informant had also paid TDS and GST on labour charges paid to the applicant, which further proves a business relationship. He pointed out that before the Trial Court, the applicant falsely denied any business connection with the informant, which shows his lack of bona fides. He relied upon the panchanama dated 26 August 2025, which records a video conversation between the applicant, his wife, and his advocate, wherein the applicant admitted his obligation to return 2,600 grams of gold. He further placed documents showing that Rs.19,33,500 was paid towards labour charges, with TDS of Rs.19,335 duly deducted and deposited. He relied on the Supreme Court judgments in *Ghanshyam v. State of Rajasthan* (2014) 2 SCC 683 and *Jaswantrai Manilal Akhaney v. State of Bombay* (1956) 1 SCC 753, to submit that delivery of gold for making ornaments constitutes entrustment, creating a fiduciary relationship.

7. Ms. Gajre, learned APP opposed the application. He submitted that the investigation is at a crucial stage and custodial interrogation of the applicant is necessary for proper recovery and verification of facts.

8. Having considered the submissions of both sides and perused the record, the following reasons weigh against granting pre-arrest bail to the applicant.

9. The facts as recorded in the FIR, when read with the material placed on record, clearly show that there exists a prima facie case of criminal breach of trust as defined under Sections 316(5) of the Bharatiya Nyaya Sanhita, 2023. The Court must, at this stage, examine whether the allegations disclose a reasonable basis to believe that the offence could have been committed. The material presently available is sufficient to cross that threshold.

10. The informant has specifically alleged that the applicant was regularly entrusted with gold for the purpose of preparing ornaments. The applicant, in his own recorded conversation and as reflected in the panchanama prepared by the investigating officer, has admitted to having received gold weighing 2,689 grams. The panchanama is prepared in the presence of independent witnesses and duly signed. Unless there is credible evidence to show fabrication or irregularity, such an official document carries presumption of correctness.

11. Further, the acknowledgment of receipt of gold produced by the complainant bears the applicant's signature. This document, coupled with the admission recorded in the panchanama, strongly supports the case of entrustment. Entrustment is a key element for establishing the offence of criminal breach of trust. Once the fact of entrustment is supported by credible material, the burden shifts upon the accused to show that he duly accounted for the property or returned it in accordance with the terms of trust. No such explanation has been given by the applicant.

12. On the contrary, the conduct of the applicant after the alleged transaction raises serious doubt about his bona fides. Instead of returning the gold or refunding its value, he sought to negotiate a one-time payment of Rs.1 crore and, when refused, provoked the informant to initiate legal proceedings, claiming he would secure bail and delay the case. This recorded conversation, if true, shows a deliberate intent to evade responsibility and misuse the process of law. Such conduct cannot be reconciled with innocence.

13. It is also significant that the applicant has not produced any contemporaneous record, ledger entry, or voucher to demonstrate that he did not receive the specific quantity of gold alleged. The bare denial of receipt, unsupported by evidence, cannot outweigh documentary acknowledgments and recorded admissions. The defence plea that the informant fabricated the case after stealing cheques appears improbable. No complaint of such theft was lodged at any point of time. Such a plea, raised for the first time during the bail proceedings, appears to be an afterthought.

14. Taken together, the documents and the recorded material point towards entrustment of gold, the applicant’s failure to account for it, and his subsequent conduct suggesting dishonest intention. These facts, when viewed collectively, provide a reasonable basis to infer that the applicant may have committed criminal breach of trust and misappropriation. The investigation is still in progress. The recovery of gold and tracing of money trail are yet to be completed. Granting pre-arrest protection at this stage would likely obstruct the process of investigation and prevent the recovery of property.

15. Thus, the Court finds, on the basis of credible evidence and reasonable interpretation of facts, that the applicant's conduct and the surrounding circumstances reveal elements of deceit and dishonesty. The allegations cannot be brushed aside as a mere business dispute. They disclose sufficient material to proceed with investigation and justify denial of pre-arrest bail.

16. The argument of the applicant that there is no specific voucher evidencing delivery of 2,510.900 grams of gold does not inspire confidence. The vouchers produced by the complainant, along with the TDS and GST records on the labour charges paid to the applicant, corroborate that a regular business relationship existed between the parties. Once such a fiduciary relationship is admitted or established, the absence of a specific delivery note for a particular transaction does not erase the presumption of entrustment arising from a continuous course of dealings. The plea of total denial appears to be an afterthought intended to evade criminal liability.

17. The contention that the informant illegally entered the applicant's office, stole cheques, and fabricated a case lacks any supporting material. No contemporaneous complaint, panchanama, or correspondence has been shown to substantiate such a serious allegation. On the contrary, the FIR, panchanama, and recorded conversation produced by the prosecution show the applicant acknowledging receipt of gold and promising to return it or compensate by transferring property. Such admissions cannot be ignored at the stage of considering pre-arrest bail.

18. The applicant's conduct subsequent to the alleged incident also weighs heavily against him. Instead of returning the entrusted gold or making good the loss, he attempted to negotiate a settlement by offering Rs.1 crore and daring the informant to initiate legal action, asserting that he would obtain bail within months and delay the case. This statement, if true, demonstrates a conscious disregard for the legal process and reflects the applicant's attempt to misuse judicial protection. The recording of this conversation and its verification under a panchanama gives it evidentiary relevance at this stage.

19. The defence's claim that the panchanama reflects selective recording does not hold merit. The panchanama was drawn by an Investigating Officer in the presence of independent witnesses. Unless shown to be fabricated or manipulated, the presumption of regularity under Section 114(e) of the Indian Evidence Act applies. The applicant has not offered any material to dislodge that presumption.

20. The investigation is at a nascent and crucial stage. The gold alleged to have been misappropriated, weighing approximately 2,689 grams and valued at over Rs.2.6 crore, is yet to be recovered. The role of other artisans or persons to whom the applicant allegedly handed over the gold also requires verification. Custodial interrogation is necessary to trace the movement of the gold, identify accomplices, and recover incriminating material. Granting anticipatory bail at this stage would seriously hamper the investigation and may result in loss of crucial evidence.

21. The offence alleged involves a breach of commercial trust of a substantial magnitude. The gravity of the accusation, the quantum of the property involved, and the nature of the deceit alleged demonstrate that this is not a case of mere civil breach or business dispute. It discloses a criminal intent to misappropriate entrusted property.

22. The judgments relied upon by the complainant, namely *Ghanshyam v. State of Rajasthan* (2014) 2 SCC 683 and *Jaswantrai Manilal Akhaney v. State of Bombay* (1956) 1 SCC 753, squarely apply. They hold that when property is delivered for a specific purpose under a fiduciary arrangement, failure to return it or deal with it as directed constitutes criminal breach of trust. In the present case, gold was handed for the specific purpose of jewellery making. The applicant's subsequent conduct in not returning it or refunding its value, and instead offering an unlawful settlement, attracts penal consequences under the said provisions.

23. The plea of partnership with the complainant's brother-in-law is irrelevant to the charge. Even assuming such partnership existed, the gold in question was entrusted by the complainant personally for a specific purpose. The defence of partnership does not dilute the element of entrustment or justify the applicant's failure to account for the gold.

24. The conduct of the applicant before the Sessions Court, where he took a false plea that there was no business relationship or transaction with the informant, assumes serious significance while considering his present application for pre-arrest bail.

25. When an accused deliberately makes a false statement before a judicial forum on a matter within his personal knowledge, it reflects an intention to mislead the court and obstruct the course of justice. In this case, the material placed on record, including the acknowledgment of gold, the panchanama recording his admission, and the payment records showing TDS and GST paid to the applicant by the informant, clearly establish that there existed a continuous business relationship between the parties. The plea of total denial, therefore, stands falsified by credible documentary evidence.

26. The applicant's conduct before the Sessions Court also undermines his plea of innocence. A person who denies even the existence of a transaction which is otherwise proved through documents and official records, and later modifies his stand when confronted with evidence, cannot be said to approach the court with clean hands. The law requires the applicant seeking equitable relief to disclose all facts truthfully. Suppression or falsehood disentitles him from such protection.

27. This false plea further strengthens the prosecution's case of deceit and dishonest intention. It shows that the applicant not only breached the trust reposed in him but also attempted to mislead the court to escape criminal liability. Such conduct is inconsistent with bona fide cooperation in investigation. It also gives rise to a reasonable apprehension that, if protected from arrest, the applicant may continue to tamper with evidence or influence witnesses to shield himself from accountability.

28. Therefore, the false plea of absence of any transaction before the Sessions Court, when weighed with the surrounding material and conduct of the applicant, reinforces the conclusion that his intention was not fair from the beginning. It also shows that he is likely to misuse the protection of pre-arrest bail if granted. The Court, thus, cannot extend the benefit of anticipatory bail to a person who has approached it with deliberate untruth and suppressed material facts. The applicant's conduct destroys the foundation of the trust required for exercising judicial discretion in his favour.

29. Considering the magnitude of the transaction, the gravity of the offence, the pending recovery, and the applicant's conduct, no case is made out for grant of anticipatory bail. The Court cannot lose sight of the larger public interest in maintaining commercial integrity and preventing misuse of fiduciary trust. Granting pre-arrest protection in such cases would send a wrong message and undermine the deterrent purpose of criminal law.

30. For all these reasons, this Court finds that the custodial interrogation of the applicant is necessary, the accusations are serious, and the applicant's version lacks credibility.

31. Hence, the application for pre-arrest bail is rejected.

(AMIT BORKAR, J.)