IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2393 OF 2025

Abdul Balu Jamadar ... Appellant

V/s.

The State of Maharashtra ... Respondent

Mr. Ghansham Jadhav i/b. Mr. Ganesh P. Mane, Advocate for Applicant.

Mr. V.B. Konde Deshmukh, Addl. P.P.

Mr. Dineshkumar Patil, API,
Yerwada Police Station, Pune City

CORAM : SANDESH D. PATIL, J.

DATE : 16TH SEPTEMBER, 2025.

P.C. :-

1. The applicant has filed present Anticipatory Bail Application interalia praying that in the event of his arrest in connection with C.R. No.531 of 2025 registered with the Yerwada Police Station for the offence punishable u/s. 316(4), 318

(3), 318 (4) and 319 (2) read with Section 3(5) of Bhartiya Nyaya Sanhita, 2023 ('B.N.S.' for short), he be released on bail. The FIR was lodged on 04.08.2025 with the Yerwada Police Station. The complainant is Manager of Asian Paints P.P.G. Pvt. Ltd. The complainant alleges that the applicant Abdul Balu Jamadar was working as Senior Executive, Segment Sales. It is the contention of the complainant that the company has its code of conduct, wherein the accused was to have good relations with the clients. The complainant further alleges that the applicant – Abdul Balu Jamadar has breached that code and has established relationship with clients for his own benefit. It is alleged that the applicant has dealt with one Modern Tecnocrats Company owned by Firoj Tamboli, who is co-accused and applicant in Anticipatory Bail Application No. 2391 of 2025. It is alleged that the accused Abdul Jamadar sold the goods worth Rs.4.76 Crores in between March 2023 to May 2025 to Modern Tecnocrats and Nam Enterprises. It is further alleged that in this transaction the applicant – Abdul Jamadar has received an amount of Rs.36,10,042/- in his account. This amount was received from Modern Tecnocrats to the account of applicant. It is further alleged that the accused – Abdul Jamadar has misappropriated the amount. Further when the settlement of accounts were settled by the Company, it was revealed that there was loss caused to the company worth Rs.36,10,042/-. It is alleged that when officers of complainant visited the office of Modern Tecnocrats, Solapur, it found that it was only shop of Tailor. There was nothing like Modern Tecnocrats Company. It was alleged that Company namely Asian Paints was cheated by Abdul Jamadar by misusing his position. The offence is alleged to be committed under Section 316(4), 318 (3), 318 (4) and 319 (2) read with Section 3(5) of B.N.S.

2. The advocate for the applicant contended that this is not case of criminal breach of trust because there was no entrustment of property. He further submits that provision of Section 316 (4), 318 (3), 318 (4) and 319 (2) read with Section 3(5) of B.N.S. are not attracted. He further states that this is not case of cheating as there was no delivery of property to him. He further submits that there is no question of cheating by impersonation.

3. The advocate for the applicant submitted that the applicant – Abdul Jamadar and Firoj Tamboli are relatives. He submits that the transaction of amount of Rs.36,10,042/- is nothing, but family transaction between Abdul Jamadar and Firoj Tamboli as Firoj Tamboli happens to be brother in law of Abdul Jamadar.

4. Mr. V.B. Konde Deshmukh, learned Addl. P.P. appearing for the Respondent on instructions has contested the Anticipatory Bail Application by contending that the applicant

knew the owners of Modern Tecnocrats and Nam Enterprises. He further states that huge amount was misappropriated by the applicants, which has caused huge loss to the company. Mr. V.B. Konde Deshmukh, learned Addl. P.P. further states that the applicant was not supposed to deal with the company known to him, inspite of this he has illegally dealt with company especially his own brother in law, Firoj Tambli and therefore there is element of misappropriation and cheating. Mr. Konde Deshmukh in the end prayed for dismissal of application.

5. Having heard the counsel at length, it appears that there was transaction of nearly Rs.4.76 Crores between Asian Paints Pvt. Ltd. and Modern Tecnocrats as well as Nam Enterprises. This transaction was during the period of 2023 to 2025. The company had during this period never complained about any loss till filing of FIR on 4th August 2025. The real grievance of the company is that the applicant has received an amount of Rs.36,10,042/-. The advocate for the applicant however has submitted that since applicant and Mr.Tamboli were relatives, therefore, there were some personal transactions and these transactions have got nothing to do with the transaction of Asian Paints Pvt. Ltd.

6. I am of the view that the applicant though brother in law of co-accused – Firoj Tamboli should not have entered into

transaction with his own kins. He has not acted in professional manner.

7. I however do not find any reason how the offence u/s. 316(4), 318 (3), 318 (4) and 319 (2) read with Section 3(5) of B.N.S. could said to have committed by the applicant. None of the ingredients of the said Section are applicable, in facts of the case. In any event the amount cannot be recovered by filing of FIR in as much as it is settled law, criminal proceeding cannot be used to recover the amount, as held by the Hon’ble Supreme Court in **Bimla Tiwari v/s. State of Bihar (2023) 11 SCC 51.**

8. The entire dispute can be resolved by looking into the statement of accounts. Whether it was really ‘kick back’ received by the applicant from Modern Tecnocrats and Nam Enterprises or it is purely transaction between close relatives can be ascertained on perusal of Statement of Bank Accounts accounts of the parties and for that purpose custodial interrogation of the accused is not necessary. Needless to say that the present observations are only for the purpose of grant of anticipatory bail and shall not be construed as opinion expressed on merits.

9. The applicant was only a sales person. He was not entrusted with the property. The property was sold to some third person. The company has received an amount of Rs.4,76,00,000/-

from the purchaser with any demurer for last more than 3 years.

10. Consequently I feel that this is a fit case where the application can be allowed. The Anticipatory Bail Application No. 2393 of 2025 is therefore allowed on the following conditions.

O R D E R

(a) In the event of arrest of the applicant in connection with C.R. No.531 of 2025 registered with the Yerwada Police Station for the offence punishable u/s. 316(4), 318 (3), 318 (4) and 319 (2) read with Section 3(5) of Bhartiya Nyaya Sanhita, 2023, the applicant be released on PR Bond of Rs.25,000/- with one or two sureties of like amount.

(b) The applicant to report the Yerwada Police Station twice a week between 10.00 a.m. to 2.00 p.m. till filing of chargesheet.

(c) The applicant shall not tamper with the prosecution witness and shall not contact or influence the complainant or any witness in any manner.

The Anticipatory Bail Application No.2393 of 2025 is disposed of accordingly.

(SANDESH D. PATIL, J.)

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