

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.978 OF 2024
WITH
INTERIM APPLICATION NO.1468 OF 2024

Bharat Navinchandra Gala ...Applicant
Vs.
The State of Maharashtra and Another ...Respondents

Mr. Murtaza Najmi a/w. Mr. Abhinesh Yadav, Ms. Nanky Kanunga, and
Ms. Farida Najmi, for the Applicant.
Ms. Rutuja Ambekar, APP for Respondent/State.
Mr. Rahul Karnik, for Respondent No. 2.
Mr. Shekhar Baramati, API, Malad Police Station.

CORAM : ABHAY J. MANTRI, J.
DATE : 8th APRIL, 2026

P.C. :

1. The Applicant is apprehending his arrest in connection with C.R. No. 219 of 2024, registered at Malad police station, Mumbai, for the offence punishable under Section 306 of the Indian Penal Code, 1860.
2. Heard the learned Advocate for the Applicant, learned APP for the State and the learned Advocate appearing on behalf of Respondent No. 2. The investigating officer is present in the Court. Perused the Application and the case papers.
3. At the outset, it appears that on 26th February, 2024, the

deceased Dilip Seth had committed suicide. Therefore, on 9th March, 2024, the informant, Ms. Pooja Seth, the widow of the deceased, lodged a report against the Applicant alleging that in January, 2020, the Applicant's son approached the deceased and took away Rs. 25 lakhs for investment purposes. It is further alleged that the deceased instructed the Applicant to hand over the said amount to Dharmen Doshi, as he needed it, and that said amount would be adjusted against future investment. After that, the deceased further invested Rs. 75 lakhs in the construction business on the condition that the Applicant shall pay interest thereon. For the security of the said amount, they entered into a Memorandum of Understanding (for short, '*MOU*') dated 7th February, 2020. However, the Applicant neither returned the said amount nor paid interest. So, the deceased was suffering from financial crisis and, therefore, under depression, he committed suicide. Based on the said information, an offence has been registered against the Applicant.

4. Mr. Najmi, the learned Advocate for the Applicant, vehemently contended that the investigation has been completed. The transaction between the Applicant and the deceased was of a civil nature, and the Applicant is ready to return an amount of Rs. 1,30,00,000/- to the Informant. He further submitted that there is a delay of 13 days in lodging

the F.I.R., which the Informant did not explain, when on the same day they were conversant about a note recorded on the mobile. He further submitted that, pursuant to the MOU, on 17th September, 2020, the Applicant had executed a registered Agreement of Sale in respect of Flat No. 1002 in favour of the informant for consideration of Rs. 75 lakhs, as mentioned in clause 'Y' of the Agreement for Sale. Thus, the Applicant has acted in accordance with the MOU. Therefore, he submitted that, at most, the Informant can avail of the civil remedy for recovery of the amount, and not the criminal proceedings. Lastly, he argued that with a view to pressurising the applicant, a false report has been lodged against the Applicant. Hence, he contended that the custody of the Applicant is not required in the present crime and urged the granting of pre-arrest bail to the Applicant.

5. Ms. Ambekar, learned APP, submitted that the investigation has been completed. The investigating officer will file a charge sheet in the Court within two weeks. However, upon query, she could not state the purpose for which the Applicant's custody is required. She submitted to pass an appropriate order.

6. Similarly, Mr. Karnik, learned Advocate for Respondent No. 2, submitted that the Applicant has not repaid the amount paid to him.

Therefore, he resisted the Application for the grant of pre-arrest bail. He further submitted that, as per clause 2 of the MOU dated 7th February, 2020, the Applicant agreed to repay Rs. 75 lakhs, together with 30% interest, to the deceased. But the Applicant failed to repay the amount. However, he does not dispute the execution of the agreement of sale in favour of the informant. But contended that, to date, no possession of the flat has been given to the informant. Thus, he failed to act in accordance with the agreement. Therefore, he submitted that if the court comes to the conclusion that the Applicant is entitled to bail, then stringent conditions may be imposed on him. As such, he prayed for the Application to be rejected.

7. Having heard the learned Advocate for the parties, at the outset, it appears that as per the allegations in the F.I.R., the deceased has paid an amount of Rs. 1 Crore to the Applicant for investing the same in the construction business and the Applicant has neither repaid the said amount nor paid interest on the same. Also, he failed to hand over the possession of the flat to the informant as agreed. This itself shows that the transaction between the Applicant and the deceased was civil in nature. Similarly, the investigating officer submitted that the investigation has been completed, that he does not require the Applicant's custody, and that

he will file the charge-sheet within two weeks. Apart from that, the Applicant is a Developer and a resident of Mumbai. No criminal antecedents of the Applicant are brought before the court.

8. Thus, considering the facts of the case, prima facie it appears that there are no specific allegations against the Applicant that, soon before the death of the deceased, the Applicant has abetted or instigated the deceased to commit suicide. It prima facie appears that the transaction between the Applicant and the deceased was civil in nature. Having considered the above, in my view, the custodial interrogation of the Applicant is not required in the present crime. However, to dispel the apprehension of the prosecution, certain conditions can be imposed on the Applicant.

9. As a result, **the Application is allowed.**

10. In the event of the arrest of the Applicant in connection with C.R. No. 219 of 2024 registered with Malad police station, Mumbai, for the offence punishable under Section 306 of the Indian Penal Code, 1860, he be released on bail on furnishing P. B. and S.B. of Rs. 1,00,000/- (Rs. 1 lakh) with one or two solvent sureties in the like amount, on the following conditions:

(i) The Applicant shall not tamper with the prosecution evidence in any manner till conclusion of the trial.

(ii) The Applicant shall attend Malad police station as and when called by the Investigating Officer till filing of the charge-sheet.

(iii) The Applicant shall not leave India without prior permission of the Court till the conclusion of the trial.

11. The Application is disposed of.

12. In view of the above, the Interim Application/s also stand/s disposed of.

[ABHAY J. MANTRI, J.]