

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.3596 OF 2024

Kapilkumar Kantilal Jain

...Applicant

Versus

The State of Maharashtra

...Respondent

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Mr. Mihir Kasliwal (Through Video Conferencing) a/w Mahesh Pawar i/b Rahul Kasliwal, for the Applicant.

Mr. S. M. Mangaonkar, APP, for the Respondent-State.

A.P.I. Dhiraj Gavare, Cyber Police Station, Nashik City, present.

CORAM: MADHAV J. JAMDAR, J.
DATED: 28 JANUARY 2026

PC:-

1. Heard Mr. Kasliwal, learned Counsel appearing for the Applicant and Mr. Mangaonkar, learned APP for the Respondent-State of Maharashtra.

2. By the present Anticipatory Bail Application filed under Section 482 of the *Bharatiya Nagarik Suraksha Sanhita, 2023*, the Applicant is seeking pre-arrest bail in connection with CR No.73 of 2024 registered on 24th September 2024 with the Cyber Police Station, Nashik City, for the offences punishable under Sections

318(4), 319(2) and 61(2) of the *Bharatiya Nyaya Sanhita, 2023* and 66D of the *Information Technology Act, 2000*.

3. The prosecution case is set out in Paragraph No.2 of the Order dated 16th December 2024 passed by the learned Additional Sessions Judge-8, Nashik in Criminal Bail Application No.2518 of 2024, which reads as under :-

“Brief facts of the prosecution case is as under :

2. *It is alleged by the informant Smt. Shruti Sandip Puri that from 23.08.2024 to 20.09.2024 applicant Kapilkumar Jain who holder of alleged mobile holder frequently called to her father and used his Adhar Card to open several accounts in several banks and large amounts of money withdrawn from it. It is alleged that, applicant told to her father that there is complaint of ED and on such false ground applicant took the details of bank account of her father for the purpose of verification and got transferred Rs. 1,31,15,529/- in his account and also got transferred Rs. 10,20,000/- of Kum. Sayali Wanway. In such manner, applicant along with other made conspiracy and cheated to father of informant. Hence, informant approached to Cyber Police Station, Nashik city and lodged the report. On that basis, crime no. 73/2024 registered by the police of Cyber Police Station, Nashik city against the applicant and others.”*

4. Thus, as per the prosecution case, the Victim - Sharadchandra Kothari, a retired Brigadier of 82 years, was subjected to a digital arrest on the ground that a Complaint had

been received by Telecom Regulatory Authority of India in respect of the Victim's mobile phone. Thereafter, he was threatened that a Complaint had been filed with the Enforcement Directorate (ED) and as a result of the same, the Victim transferred a total amount of Rs.1,29,90,529/-.

5. It is the submission of Mr. Kasliwal, learned Counsel for the Applicant that a learned Single Judge has already protected the Applicant by Order dated 8th January 2025 and the Charge-sheet has been filed. Therefore, custodial interrogation is not necessary and the Applicant is not involved in the crime. Mr. Kasliwal, learned Counsel for the Applicant, submits that the Applicant has cooperated with the investigation.

6. The Order dated 8th January 2025 passed by a learned Single Judge [Coram: N. R. Borkar, J.], reads as under :-

“1. Considering the nature of offence, the applicant shall attend the concerned Police Station from 09th January, 2025 to 16th January, 2025 between 11:00 a.m. to 2:00 p.m.

2. List the present application for further consideration on 22nd January, 2025.

3. Till the next date, the applicant shall not be arrested.”

7. Thus, it is clear that the merits of the Anticipatory Bail Application were not considered by the learned Single Judge while granting ad-interim Order and therefore the said aspect is not relevant.

8. It is well settled that among other circumstances, the factors to be borne in mind while considering an application for bail are: (i) whether there is any *prima facie* or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the accusation; (iii) severity of the punishment in the event of conviction; (iv) danger of the accused absconding or fleeing, if released on bail; (v) character, behaviour, means, position and standing of the accused; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being influenced; and (viii) danger of justice being thwarted by grant of bail.

9. The contents of the FIR and the material collected during the investigation show that *prima facie* the accused are involved in the crime. This is a case of digital arrest. By threatening the Victim inter alia of ED case total amount which the Accused received is

about Rs.1,29,90,529/-. Admittedly, a huge amount of about Rs.2,56,00,000/- has been deposited in the account of the Applicant. Thus, on the touchstone of the above parameters for grant of bail, it is clear that no case is made out for grant of anticipatory bail.

10. The Supreme Court in the decision in the case of ***Nikita Jagganath Shetty vs. State of Maharashtra***¹, held that anticipatory bail is an exceptional remedy and ought not to be granted in a routine manner. There must exist strong reasons for extending indulgence of this extraordinary remedy to a person accused of grave offences. It has been further observed that the Court should be very cautious while dealing with the applications for anticipatory bail as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence. The said observations of the Supreme Court are squarely applicable to the present case.

1 2025 SCC OnLine SC 1489

11. In the facts and circumstances, no case is made out for grant of pre-arrest bail.

12. Accordingly, the Anticipatory Bail Application is dismissed.

[MADHAV J. JAMDAR, J.]