IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 3575 OF 2025

Mr. Nadeem Hussain Dhamskar .... Applicant

V/s.

The State of Maharashtra .... Respondent

Mr. Asif Hakim i/b. Adv. Nidhi Sharma for the Applicant.
Smt. M.S. Bajoria, APP for the Respondent – State.
Mr. Khalid Azmi a/w. Adv. Adnan Khan for the original Complainant.
Mr. Pisal and Mr. Sawant, PSI, V.B. Nagar Police Station, present.

CORAM : SHYAM C. CHANDAK, J.

DATE : 10th APRIL, 2026

P.C. :-

1) This is an application for anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with an FIR bearing C.R.No.717 of 2025, registered with Vinoba Bhave police station under Sections 316 (2) and 318 (4) of the Bharatiya Nyaya Sanhita, 2023 on the basis of the report filed by Habib Ibrahim Vanu.

2) Heard Mr. Hakim, learned Advocate for the Applicant, Smt. Bajoria, learned APP for the Respondent-State and Mr. Khan for the complainant.

3) The prosecution case is that between 25th May 2024 and 7th July 2025, the Applicant cheated the informant giving him false assurance of making good profit out of a garment business in partnership and induced the informant to invest total Rs.37,03,000/- in the partnership business.

However, the Applicant never shared the profit of the business with the informant. Therefore, the informant demanded for his share in the profit. This was followed by a meeting in-between the two. Hence, the Applicant returned Rs.1,68,000/- from the principal amount. However, the Applicant avoided to pay the balance amount and share the profit. Thus, Applicant cheated the informant. As a result, the present crime came to be registered on the report of informant. Anticipatory bail application of the Applicant came to be rejected by the learned Additional Sessions Judge concerned.

4) Mr. Hakim, the learned Counsel for the Applicant submits that the dispute between the parties is of civil nature. There was no written agreement for the business and the profit-sharing. No books of account were maintained to show the business profit. The two security cheques given to the complainant by the Applicant have been misused by the informant taking recourse to the proceedings under the Negotiable Instruments Act. The present FIR has been filed just to pressurise the Applicant to pay the amount desired by the informant. Thus, the Applicant is innocent. However, the learned Additional Sessions Judge has not properly considered the facts of the case and erroneously rejected the anticipatory bail application of the Applicant. Therefore the Applicant deserves for anticipatory bail.

5) In reply, Smt.Bajoria, the learned APP and Mr.Azmi, the learned counsel for Respondent No.2 have submitted that the bank entries and statement of the informant's relative confirm that the informant had paid total Rs.37,03,000/- to the Applicant. However, the Applicant has not invested that amount in the business nor shared the business profit. Thus, the Applicant has caused wrongful loss to the informant by practicing cheating. Without custodial interrogation of the Applicant, thorough investigation is not possible in the case. Therefore, bail may be rejected.

6) I have considered these submissions. In the report, the informant has clearly mentioned that he had paid Rs.28,03,000/- to the Applicant through banking transactions and additional Rs.9,00,000/- through his nephew. Out of the said amount, only Rs.1,68,000/- was returned by the Applicant to the informant. The Applicant has not produced any document to show that he has invested the money in the garment business. However, as alleged in the report, the Applicant used to post the informant on a whats-app about the business transaction. The Applicant has not explained as to how he has utilised the informant's money or where he invested it.

7) Admittedly, the Applicant issued the dishonoured cheques in the name of the informant. However, he has failed to explain why the cheques were issued as security, if in fact he had no legal liability to discharge. Therefore, an adverse inference is permissible against the Applicant. By the Order dated 16th January 2026, it was directed that the Applicant shall not be arrested, till the next date. Said relief was granted, relying upon the statement made by the learned counsel for the Applicant that without prejudice to his rights and contentions, the Applicant showed his willingness to pay the amount of Rs.26,35,000/-. However, the Applicant has not taken any step till date to honour his said statement. These facts and circumstances indicate that, since inception, the Applicant had intention to deceive the informant and therefore he falsely stated him that the garment business in the partnership will earn them good income and thereby induced to the informant to part with his hard earned money.

8) In the wake of above, I hold that there is a *prima facie* case against the Applicant of having committed the alleged offence of cheating. Looking at the facts of the case, the custodial interrogation of the Applicant is essential as it would help to understand as to where the Applicant has invested the informant's money, how he misappropriated that money, to

collect the relevant evidence in support of the prosecution case and to recover the money.

9) In view of the above discussion, the Applicant is not entitled for the pre-arrest bail as prayed. As a result, the Application is liable to be rejected and is rejected accordingly.

(SHYAM C. CHANDAK, J.)