

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

Cri. Anticipatory Bail Application No. 933 of 2026

Sayed Mohammed Saud Sharafat Husain

Age 45 years, Occ. Business,

R/o. Such Sagar Bldg., D/9 215,

Old Agra Road, Near Shalimar Hotel,

Kurla (W), Mumbai – 400 070.

... Applicant

Versus

The State of Maharashtra

(Through Vinoba Bhave Nagar

Police Station)

...Respondent

Mr Ebaad Shaikh a/w Ms Ruksar Shaikh, for the Applicant.

Ms Anagha Deshmukh, APP, for the Respondent / State.

PSI Popalghat a/w PSI Sawant, Vinoba Bhave Nagar Police
Station, Mumbai.

Coram: R.N. Laddha, J.

Date: 9 April 2026

P.C.:

By this application, the applicant seeks pre-arrest bail in connection with CR No.121 of 2026, registered at Vinoba Bhave Nagar Police Station, Mumbai, for offences punishable under 316(2) and 318(4) of the Bharatiya Nyaya Sanhita, 2023.

2. It is the case of the prosecution that in May 2025, the

informant, in need of iron pipes, approached the accused through a common acquaintance. The accused, representing himself as a *bona fide* iron trader based in Kurla, Mumbai, induced the informant's trust. Acting on these representations, the informant placed an order and remitted a sum of Rs.4,97,783/- on 22 May 2025. Thereafter, the accused failed to fulfil his contractual obligation to supply the goods and did not return the accepted amount.

3. Mr Ebaad Shaikh, the learned Counsel appearing on behalf of the applicant, asserts the applicant's innocence and contends that the applicant has been falsely implicated in the crime. He argues that the present dispute is evidently civil in nature. Instead of pursuing recourse through a civil forum, the informant has resorted to criminal proceedings in a questionable effort to exert undue pressure, thereby attempting to transform a civil dispute into a criminal one. The essential ingredients required for establishing offences under Sections 316(2) and 318(4) BNS are significantly lacking. The applicant had no intention of defrauding or inducing the informant. Furthermore, the learned Counsel submits that the transactions in question occurred in May 2025, yet the FIR was filed only on 13 February 2026, without providing any plausible explanation for the delay.

4. Ms Anagha Deshmukh, the learned Additional Public Prosecutor representing the respondent/ State, opposes the applicant's request for pre-arrest bail and contends that the offence is of a serious nature. He submits that the applicant accepted the consideration, failed to deliver the goods, and failed to return the accepted funds, thereby misappropriating and defrauding the informant. The learned APP raises concerns about potential evidence tampering and witness influence if the applicant is granted pre-arrest bail.

5. Upon perusing the records, particularly the contents of the FIR, it appears that a commercial transaction exists between the applicant and the informant. *Prima facie*, the allegations do not reveal any elements of criminality. To constitute an offence of cheating, there must be more than a *prima facie* case; it must be shown that the accused had a fraudulent intention to deceive the informant from the very beginning. Even if the applicant owed money to the informant, that fact alone does not constitute the offence of cheating unless it is shown that there was a dishonest intention at the outset. Notably, no civil proceedings have been instituted against the applicant, and there is a significant delay in lodging the FIR. The prosecution's apprehensions about potential evidence tampering and witness influence can be addressed by imposing appropriate conditions.

In these circumstances, this Court is inclined to exercise its discretion in favour of the applicant. Hence, the following order:

ORDER

- (i) In the event of the applicant's arrest in connection with CR No.121 of 2026, registered at Vinoba Bhave Nagar Police Station, Mumbai, he shall be released on bail upon executing a PR Bond of Rs.25,000/- and furnishing one or more sureties in the like amount.
- (ii) The applicant, himself or through any other person, shall not tamper with the evidence or influence witnesses.
- (iii) The applicant shall attend the concerned Police Station as and when required.

6. The application stands disposed of accordingly.

[R.N. Laddha, J.]