



THE HIGH COURT OF JUDICATURE AT BOMBAY: NAGPUR BENCH : NAGPUR.

CRIMINAL APPLICATION [ABA] NO. 955 OF 2025

SAURABH DURGAKUMAR MISHRA

VERSUS

STATE OF MAH., THRU. P.S.O., P.S., KOTWALI, NAGPUR

Office Notes, Office Memoranda of Coram,
appearances, Court's Orders or directions and
Registrar's order

Court's or Judge's Order

Mr. A. V. Jaiswal with Mr. Amit Khare, Advocates for the applicant.
Mrs. H. N. Prabhu, A.P.P. for the non-applicant /State

CORAM : M. W. CHANDWANI, J.

DATE : JANUARY 12, 2026.

1. Heard.
2. The applicant is apprehending his arrest in connection with Crime No. 381/2025 registered with Police Station, Kotwali, Nagpur for the offences punishable under Sections 316(2), 316(5) and 318(4) of the Bhartiya Nyaya Sanhita, 2023.
3. The allegation against the applicant is that the applicant misrepresented himself as Manager of HDFC Bank, Dhantoli Branch, Nagpur and on the pretext of renewal of policy, took OTP from time to time from the mobile phone of the complainant and fraudulently transferred the amount of Fixed Deposit in her name to various accounts and siphoned it for his personal use.
4. The learned counsel appearing for the applicant submitted that the alleged transfer of money took place in the years 2023 and 2024; whereas, the offence came to be registered in 2025. Therefore, according to him, the delay of two years raises a doubt on the credibility of the

complainant. He further submitted that the person in whose account the amount has been transferred has not been made an accused. Lastly, the learned counsel submitted that physical custody of the applicant is not required.

5. To buttress his submission, the learned counsel seeks to rely upon the decision in the case of *Hirasing S/o Kalyansing Chandelthakur .vs. The State of Maharashtra*, in Anticipatory Bail Application No. 1607 of 2021 with connected applications, decided on 18.01.2022, wherein the coordinate bench of this Court at Principal Seat has observed that mere allegations without substantial evidence do not warrant custodial interrogation while granting anticipatory bail to the applicants therein.

6. The learned counsel further seeks to rely upon the decision of the Chhattisgarh High Court in the case of *Ajay Kumar Kurre .vs. State of Chhattisgarh*, reported at **2024 CGHS 40120** wherein, apart from the other observations, anticipatory bail was granted on the ground of unexplained delay of three and half years in lodging the FIR.

7. The learned APP opposed the application on the ground that there is ample material against the applicant which establishes his connection with the crime. According to the learned APP, the applicant has also misrepresented Mr. Kaustubh Kamble, in whose account the amount was transferred by the applicant and ultimately, that amount has been credited in the account

of the applicant which shows his connection with the crime. According to her, various revelations are to be unfolded for which custodial interrogation of the applicant is necessary.

8. Having heard the learned counsels for the parties and having gone through the case diary, it is revealed that the complainant who is a widow, received insurance amount on account of death of her husband. As per the suggestion of the former manager of HDFC Bank, Dhantoli Branch, she purchased the insurance policies and the remaining amount was invested in Fixed Deposits with the help of the bank. It is also revealed that the applicant got well acquainted with the complainant when she used to visit the bank. He used to visit the house of the complainant and take the mobile phone of the complainant to take OTP on the pretext of renewal of the policy. Lateron, it was revealed that an amount of Rs.20 lakhs was transferred from the account of the complainant to the account of one Kaustubh Kamble. The statement of Kaustubh Kamble recorded by the police reveals that he was misrepresented by the applicant. It is also revealed that ultimately, the amount used to get credited in the account of the applicant.

9. All the material mentioned above shows the active involvement of the applicant in the crime. Admittedly, the amount has not been recovered. There are other aspects of the case which remain to be unfolded. In order to crack the offence and to collect the material; in my view,

custodial interrogation of the applicant is necessary.

10. So far as the decision of this Court in *Hirasing Kalyansing Chandelthakur's case (supra)* is concerned, in that case there was no material against the applicant. In that scenario, it was observed that physical custody was not necessary. In the case at hand, there is ample material showing the involvement of the applicant in the crime.

11. So far as the aspect of delay is concerned, considering the FIR which specifically shows that the OTP was obtained by the applicant from the mobile phone of the complainant by visiting her house and it was only in August-2025 when she reached the bank that she came to know that there was no fixed deposit surviving in her name, no case is made out for grant of anticipatory bail. Accordingly, the criminal application is rejected.

12. Needless to mention that the observations made in this order are only for the purpose of deciding the anticipatory bail application. The trial Court shall not get influenced with the said observations.

(M.W.Chandwani, J.)