2026:BHC-AUG:20619

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO. 490 OF 2026
ABDUL GAFFAR ABDUL HABIB THEKIYA
VERSUS
THE STATE OF MAHARASHTRA

WITH

CRIMINAL APPLICATION NO. 1126 OF 2026
NAJER MAJJID SAUDAGAR
VERSUS
ABDUL GAFFAR ABDUL HABIB THEKIYA AND ANOTHER

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Advocate for Applicant in ABA : Mr. K. N. Shermale a/w
Mr. Sayyed Umair Pasha A. Quader

Addl.PP for Respondents/State : Mr. A. S. Shinde

Advocate for Complainant : Mr. D. V. Dharurkar

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CORAM : MEHROZ K. PATHAN, J.
DATE : 4th MAY 2026

ORDER :

1. Heard the learned Counsel for the Applicant, the learned Counsel for the Complainant and the learned APP for the Respondent/State.

2. The Applicant has approached this Court, seeking anticipatory bail application in connection with Crime No. 4/2026 registered with Beed Cyber Police Station, District Beed for the offences punishable under Sections 318(4), 66, 66(C), 3(5) and added Section 118(2) of the Bharatiya Nyaya Sanhita, 2023.

3. The case of the prosecution is that the Informant, Najer Majid Saudagar, lodged an FIR on 13.01.2026 alleging that he received a phone call on 06.01.2026 at about 2.00 p.m. from Feroz Naseem Khan, who informed him that he had stock of maize required as feed for a poultry farm, kept in his godown at Sultanpur, Tq. Phulambri, Dist. Aurangabad. The informant then ordered maize weighing about 75 tonnes. On 07.01.2026, the informant again received a phone call from Feroz Khan, who stated that the goods were loaded in the vehicles however unless the informant transferred the price of the goods, he would not deliver them. The informant thereafter transferred an amount of Rs. 5,00,000/- from his account in S.B.I. to the bank account of Feroz Khan in ICICI Bank. The informant's son, Juned, also transferred Rs. 5,00,000/- from his account in S.B.I. to Feroz Khan's account and additionally paid Rs. 40,000/- online to the account of the driver. The informant then informed the Applicant that he had transferred the entire amount towards the price of the goods as well as the delivery charges to the driver. Feroz Khan assured him that the goods would be delivered on 08.01.2026. However, the informant did not receive the said goods. Hence, the FIR came to be lodged.

4. The learned Counsel for the Applicant submits that the Applicant is falsely implicated in the present crime and is not alleged to have played any overt act in the FIR. The entire allegations are against accused Feroz, who induced the Complainant to deliver a huge amount and thereafter failed to deliver the goods. The

Applicant has been implicated later on merely on the basis of the statement of the co-accused. The statement of the arrested co-accused is not an admissible piece of evidence. The Applicant has deep roots in society, is not a flight risk, and is ready to abide by any conditions that may be imposed by this Court. Hence he may be released on anticipatory bail.

5. As against this, the learned APP strongly opposes the bail application on the ground that the Applicant is involved in the serious offence of aggravated cheating, punishable under Section 318(4) with seven years of imprisonment. The role of the Applicant emerges from the statement of the arrested co-accused, who specifically narrated the conspiracy hatched by the Applicant along with other co-accused. The arrested co-accused, Feroz, named in the FIR, was merely a pawn acting at the behest of the Applicant and others. The Applicant compelled co-accused Feroz to withdraw amounts from the ATM, which were thereafter distributed between the Applicant and the co-accused. The Applicant is stated to have received Rs. 2,10,000/- out of Rs. 10 Lakhs extracted from the Complainant with the assistance of Feroz. The CDR shows that co-accused Feroz was in continuous touch with the Applicant, thereby establishing the Applicant's involvement in the crime. The custodial interrogation of the Applicant is therefore necessary to investigate the offence from all angles and to unearth the conspiracy hatched by the Applicant in concert with the other co-accused. Hence this is not a fit case to grant anticipatory bail to the Applicant and the

application may therefore be rejected.

6. I have gone through the investigation papers made available by the learned APP. The investigation papers contain the statements of co-accused Feroz and Shaikh Saeeduddin, recorded on 24.01.2026, wherein the role of the present Applicant is clearly made out. Both accused persons stated that on 07.01.2026, the Applicant, along with co-accused Feroz, Shaikh Saeeduddin, Imran, and Asif, had gathered at API Corner at about 2:00 p.m. and hatched a conspiracy to extract money from the Complainant. Accused Feroz was instructed to make a phone call to the Complainant, Najer Saudagar, and induced him by falsely informing that poultry grains were available at a lower price. The Complainant thus fell prey to the trap laid by the Applicant in connivance with co-accused Feroz and Shaikh Saeeduddin. The Complainant agreed to pay an amount of Rs. 10 Lakhs for two truckloads of poultry grains. The said amount was thereafter deposited in the account of Feroz. The accused, along with other co-accused, instructed Feroz to withdraw the amount, which was subsequently distributed amongst them. Out of this, a sum of Rs. 2,10,000/- came to the share of the present Applicant.

7. The learned Counsel for the Applicant relies upon the judgment of the Hon'ble Supreme Court in **P. Krishna Mohan Reddy vs. State of Andhra Pradesh, 2025 INSC 725**, to submit that the statement of a co-accused cannot be relied upon by prosecution as the same is not admissible in evidence.

. On the other hand, the learned APP has relied upon the judgment of the Supreme Court in **State of Haryana Vs. Samarth Kumar, 2022 LiveLaw (SC) 622** to contend that the statement of a co-accused can be considered at the stage of deciding an anticipatory bail application, though it may not be admissible while deciding a regular bail application or during trial.

8. Be that as it may, the case diary of the present crime and the investigation papers, which have culminated in the filing of the charge-sheet against the arrested co-accused, clearly show that the prosecution has not relied solely upon the statements of co-accused Feroz and Saeeduddin to implicate the present Applicant. These statements are corroborated by the call detail records of mobile phone communications between the Applicant and the main accused Feroz. The mobile number of the Applicant, 8459663458, is shown to have been in continuous contact with the mobile number of Feroz, 7028593887, from 05.01.2026, prior to the commission of the offence, during its commission, and thereafter until 15.01.2026. The investigation papers also contain the statement of Tukaram, wherein he stated that on 07.01.2026, Feroz had arrived at his shop, filled one truck with 25 tonnes of poultry grains, and thereafter paid an amount of Rs. 40,000/-. Feroz further stated that he was in need of two more trucks of grains. However, though the trucks arrived, the grains were not loaded by him. The labourer Akash, who works with Tukaram, also confirmed that Rs. 40,000/- was transferred by accused Feroz into his account, and that Feroz thereafter demanded

cash of the same amount but did not turn up again. Thus, there is additional evidence in the form of call detail records which corroborate the statements of the co-accused recorded in custody, and the material implicating the role of the present Applicant. In the present case, since there is material beyond the statements of the co-accused, it provides leads to the investigating agency which require custodial interrogation of the Applicant. The allegation is of cheating by hatching a criminal conspiracy. The custodial interrogation of the accused is thus found to be indispensably necessary for the investigating agency to unearth the other links involved in the criminal conspiracy hatched by the present Applicant along with the co-accused. The offence is serious in nature. The amount of Rs. 2,10,000/- is to be recovered from the Applicant. Hence, in my opinion, this is not a fit case to release the Applicant on anticipatory bail. The Applicant has failed to make out any case for interference by this Court. Taking into consideration the material collected by the prosecution against the present Applicant, I am not inclined to exercise discretion under Section 482 of the BNSS. The application for grant of anticipatory bail is, therefore, rejected.

9. The Criminal Application is also disposed of.

MEHROZ K. PATHAN
JUDGE

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