

MHCC050068912022



**IN THE COURT OF SESSIONS AT DINDOSHI  
(BORIVALI DIVISION), GOREGAON, MUMBAI**

**ANTICIPATORY BAIL APPLICATION NO.2066 OF 2022**

**IN  
C.R.NO.851 OF 2022**

Mr. Chandoo Samarjeet Sharma  
An adult Indian inhabitant,  
Aged about 29 years, Occ.- Employee,  
Residing at Room No.25,  
Jai Ambe Society, Sharma Compound,  
CTS 11 73, M. G. Cross Road No.3,  
Near Modi Nagar, Kandivali (West),  
Mumbai, Maharashtra – 400 067

.....Applicant/Accused

V/s.

The State of Maharashtra  
(At the instance of Charkop Police Station, Mumbai)

.....Respondent

Adv. T. R. Patel for applicant/accused.  
APP. Ms. R. S. Kanojia for State/respondent.

**CORAM : H.H. Additional Sessions Judge,  
Shri S. N. Salve.  
Court Room No.15.**

**Date : 11<sup>th</sup> January, 2023**

**ORAL ORDER**

This is an application under section 438 of Code of Criminal Procedure 1973 moved by the applicant-accused for grant

of bail in anticipation of his arrest in connection with C. R. No.851 of 2022 registered with Charkop Police Station for an offence punishable u/sec.436, 420, 336, 285, 34 of Indian Penal Code r/w Sec.3, 7, 8 and 9 of the Essential Commodities Act r/w Sec.3, 4, 5 and 6 of the Gas Cylinder Rules 1981.

2. In short, it is the contention of the applicant-accused that he is apprehending his arrest in connection with the aforesaid crime registered with Charkop Police Station. Applicant came to know that his name has been arrayed as an accused on the basis of the statement of one of the co-accused. It is alleged by the prosecution that the informant/police officer received secret information that the co-accused were found illegally refilling the gas cylinders of various companies and selling those gas cylinders as commercial gas cylinders. It is further alleged by the prosecution that during the raid, gas cylinders and other incriminating articles came to be recovered from the co-accused. It is also alleged by the prosecution that the present accused has nexus with the alleged crime. According to the applicant, he has not committed the offence as alleged by the prosecution and has been falsely implicated. He is having no criminal antecedents. There is no material to show his involvement in the crime. He is ready to abide by the terms and conditions, if any, imposed by the Court. It is further submitted that the investigation of the crime is over and chargesheet has also been submitted before the Ld. Metropolitan Magistrate. Therefore, further custodial interrogation of the applicant-accused is not warranted. Lastly, he prayed that he be enlarged on bail in anticipation of aforesaid crime.

3. The prosecution has opposed the application by contending that the involvement of the present applicant has come on record during the course of the investigation. In order to verify whether the applicant is having active role in the alleged offence or not, he is to be arrested. It is submitted by the prosecution that investigation of the crime is to be done. The Prosecution, therefore, prayed that application be rejected.

4. I have heard the Ld. Advocate for the applicant-accused and Ld. APP for the State.

5. Having heard the Ld. Advocate for applicant-accused and Ld. APP for State, I have gone through the bail application, say filed by the prosecution and copy of chargesheet. The applicant is apprehending his arrest in connection with the offence punishable under Sec.436, 420, 336, 285, 34 of Indian Penal Code r/w Sec.3, 7, 8 and 9 of the Essential Commodities Act r/w Sec.3, 4, 5 and 6 of the Gas Cylinder Rules 1981 registered with Charkop police station. It is seen from the say filed by the prosecution and chargesheet that the co-accused are already enlarged on bail, after completion of the investigation, the chargesheet is also submitted in the court of Ld. Metropolitan Magistrate.

6. In so far as the present applicant is concerned as per the grounds for the rejection of the bail application as submitted by the Investigating officer, it is to be inquired with the present applicant that whether he is having active role or not. From the say of the prosecution, it is very clear that nothing incriminating is to be

recovered from the present applicant. The only contention of the prosecution is that investigating officer has to make inquiry with the present applicant as to ascertain whether the present applicant is having any active role in the offence alleged against him, that can be done by directing the applicant to attend the concerned police station for inquiry. Considering the role attributed to the present applicant-accused, I am of the opinion that custodial interrogation is unwarranted. Furthermore, the present applicant is having no criminal antecedents and he hails from Mumbai and there appears no possibility of fleeing away from justice. After having considered the nature of allegations made against the present applicant-accused, the grounds for rejection of the bail application and the fact that the investigation with respect to the co-accused is completed and chargesheet is also submitted, I am of the opinion that this is fit case to exercise the power under Sec.438 of the Code of Criminal Procedure.

In the result, following order is passed.

**ORDER**

- 1) Anticipatory Bail Application No.2066 of 2022 is allowed.
- 2) Charkop Police Station, Mumbai is directed that the applicant-accused Chandoo Samarjeet Sharma in Crime No.851/2022 for the offence punishable under Sec.436, 420, 336, 285, 34 of Indian Penal Code r/w Sec.3, 7, 8 and 9 of the Essential Commodities Act r/w Sec.3, 4, 5 and 6 of the Gas Cylinder Rules 1981, in the event of his arrest, he be released on bail on executing P. R. Bond of Rs.30,000/- (Rupees Thirty Thousand) and on furnishing one or two solvent sureties in the like amount subject to following conditions:-

(a) The applicant-accused shall attend the concerned police station in between 10:00 am to 02:00 pm on every Sunday until further order.

(b) The applicant-accused shall not directly or indirectly make any inducement, threat or promise to any other persons acquainted with the facts of the accusation against them so as to dissuade them from disclosing such facts to the Court to any other officer.

3. Breach of any of the conditions shall entail cancellation of bail.
4. Inform to the concerned Police Station, accordingly.
5. Anticipatory Bail Application No.2066 of 2022 stands disposed of accordingly.

Dt.11/01/2023

**(S. N. SALVE)**  
Addl. Sessions Judge,  
City Civil & Sessions Court,  
Borivali Division, Dindoshi, Mumbai

“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.”

UPLOAD DATE 12.01.2023  
AND TIME : 11.15 a.m.

Mrs. T. S. Bhogte  
NAME OF STENOGRAPHER

Name of the Judge (with Court Room No.)	HHJ Shri S. N. Salve (Court Room No.15)
Date of Pronouncement of Judgment/Order	11.01.2023
Judgment/Order signed by P.O. on	12.01.2023
Judgment/Order uploaded on	12.01.2023