

MHCC050066702022



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

ANTICIPATORY BAIL APPLICATION NO.2002 OF 2022

IN

(Crime No.529 of 2022 of Vanrai Police Station)

Dale Jacinto S/O Sabby Jacinto,

Age – 28 years Occ.: -

Residing at – St. Roque Road, House No.-119/B,

Kolivery Village, Kalina, Santacruz East,

Mumbai – 400 098.

..Applicant

Vs

State of Maharashtra

(through the P.S.O. of

Vanrai Police Station, Mumbai)

..Respondent

Ld. Advocate Shri. Hemang Upadhyay a/w. Pawan Singh for the applicant.

Ld. APP Smt. Poornima Chauhan for the State/respondent.

**CORAM : SHRI A.R. QURESHI
ADDITIONAL SESSIONS JUDGE,
COURT ROOM NO.06.**

DATE : 21st DECEMBER, 2022

ORAL ORDER

1. Applicant namely “Dale Jacinto S/O Sabby Jacinto,” had moved this application u/s.438 of Cr.P.C. for seeking direction to release him on anticipatory bail apprehending arrest in connection with crime no.529 of 2022 for the offences punishable under section 419, 420, 467 r/w.34 of Indian Penal Code r/w. Section 66 (b)(c)(d), 72(a) and 75 of Information and Technology

Act, registered with Vanrai Police Station, Mumbai.

2. Read application, perused report of IO at Exh.2 which is say of prosecution as submitted by learned APP Smt. Poornima Chauhan. Further perused copy of FIR, copy of order releasing rest of the accused on regular bail in Cri.Bail Application no.947 of 2022 in the same crime vide order dated 20.09.2022.

3. Heard learned counsel for the applicant Shri. Upadhyay and learned APP Smt. Poornima Chauhan for the respondent/state. Learned counsel for the applicant vehemently submits that rest of the 6 accused in the same crime are released on regular bail by this court as per bail order in Cri.Bail Application No.947 of 2022 in the same crime vide order dated 20.09.2022. According to learned counsel for the applicant, there is no role of present applicant in this crime, hence no custodial interrogation of the applicant is required. Therefore, he submits to release the applicant on anticipatory bail.

4. Per contra learned APP Smt. Poornima Chauhan vehemently argued that investigation is in progress, not completed. Physical custody of applicant for custodial interrogation is necessary, hence, she submitted to reject this bail application.

5. Learned counsel for the applicant submits that even though no charge-sheet is filed it will not be ground to reject this bail application and he submits to release th applicant on anticipatory bail as he will co-operate IO in investigation as and when required.

6. Learned counsel for the applicant relied on the following rulings.

(1) *Court on its own Motion Vs. Central Bureau of Investigation*, order passed by Hon'ble Delhi High Court in CrI.M.(M)3875 of 2003, decided on 28.01.2004 – Online copy.

(2) *Menino Lopes Versus State of Goa*, order passed by Hon'ble Bombay High Court – CDJ 1994 BHC 187 – Online copy.

(3) *Munawar Vs. State of Madhya pradesh*, order passed by Hon'ble Supreme Court of India, decided on 05.02.2021. LAWS(SC)-2021-2-95 – Online copy.

(4) *Kamaljit Singh Vs. State of Punjab & Another*, order passed by Hon'ble Supreme Court of India, decided on 11.07.2005. CDJ 2005 SC 1133 – Online copy.

(5) *Gagan Harsh Sharma Vs. State of Maharashtra Through Sr.Police Inspector*, Order passed by Hon'ble Bombay High Court, decided on 26.10.2018. LAWS(BOM)-2018-10-192 – Online copy.

(6) *Sri. Poornesh @ Supradeep S/o Swmaygowda Vs. The state of Karnataka and Anr.*, order passed by Hon'ble High Court of Karnataka at Bengaluru in Criminal Petition No.8424 of 2017, decided on 30.06.2022 – Online copy.

(7) *David Alfonso s/o George Alfonso Vs State of Maharashtra*, order passed by Hon'ble Bombay High Court in Anticipatory Bail Application No.2983 of 2022, decided on 11th November, 2022 – Online copy.

(8) *Nanha S/o Nabhan Kha Vs. State of U.P.*, order passed by Hon'ble High Court of Allahabad in Criminal Misc. III Bail application No.792 of 1992, decided on 18.09.1992 – Online copy.

I have gone through aforesaid ruling carefully and considered as valuable guidelines for me to decide this application on merit.

7. Now in this bail application as per FIR, there are allegations

against applicant and other co-accused that they have cheated American citizens by using latest technology and application, as well as allegations in respect of theft of data of foreign citizens with malafide intention by running call center. Upon hearing both the sides, considering report of IO, nature of the offence and ground as raised by the IO in the report at Exh.2, I prima facie found that the IO could not seize muddemal that the hard disk, computer i.e. technical information. Now investigation is incomplete. Now considering allegations, nature of the case I am of the view prima facie that custodial interrogation of the present applicant is certainly required so as to detect and ascertain the role of applicant in the said crime. Without custodial interrogation investigation will not be completed. In such circumstances, I am not inclined to allow this bail application to release the applicant on anticipatory bail in the event of arrest. Therefore, application deserves to be rejected and applicant does not deserve relief as claimed u/sec.438 of Cr.P.C. for anticipatory bail. Hence, I proceed to pass following order.

ORDER

1. Anticipatory Bail Application No.2002 of 2022 u/sec.438 of Cr.P.C. as filed by applicant **Dale Jacinto S/O Sabby Jacinto**, in Crime no.529 of 2022 of the offences u/s.419, 420, 467 r/w.34 of Indian Penal Code r/w. Section 66 (b)(c)(d), 72(a) and 75 of Information and Technology Act, registered with Vanrai Police station, Mumbai is hereby rejected and disposed of accordingly.
2. Order pronounced in Open Court.
3. Proceeding closed.
4. Parties to act upon the copy of roznama duly authenticated by Court Sheristedar.

Dt. 21/12/2022

(A. R. Qureshi)
Additional Sessions Judge,
Borivali Div.,Dindoshi, Mumbai

Dictated on : 21/12/2022
Transcribed on : 21/12/2022
Corrected on : 22/12/2022
Signed on : 22/12/2022

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

Date : 22/12/2022

Time : 1.40 P.M.

UPLOAD DATE AND TIME

Ms. R. A. Monde

(Stenographer Grade-I)

NAME OF STENOGRAPHER

Name of the Judge (with Court room no.)	HHJ A. R. Qureshi (C.R.No.6)
Date of Pronouncement of JUDGMENT/ORDER	21/12/2022
JUDGMENT/ORDER signed by P.O. on	22/12/2022
JUDGMENT/ORDER uploaded on	22/12/2022