



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

ANTICIPATORY BAIL APPLICATION NO. 2001 OF 2022

IN

(C. R. No. 2282 of 2022 of Sakinaka Police Station, Mumbai)

Deepak Mangeram Sauda,

Age : 36 yrs., s/o Mangeram Sauda,

R/o : Forensic Laboratory Quarters,

Hans Burga Road, Kalina, Santacruz East,

Vidyanagri, Mumbai-400 098.

..Applicant

V/s

The State of Maharashtra

(through Sakinaka Police Station)

..Respondent

Ld. Adv. Arvind Yadav I/b Taraqu Sayed, for the applicant.

Ld. APP R.C. Salve, for the State.

CORAM : H.H. THE ADDITIONAL SESSIONS

JUDGE R.M. MISHRA

(C.R.NO.4)

DATE : 27th December, 2022

ORAL ORDER

This is an application for the grant of anticipatory bail under section 438 of the Cr.P.C., in connection with C.R. No. 2282 of 2022 registered with Sakinaka Police Station, for the offences punishable under sections 420, 406 read with section 34 of the Indian Penal Code.

2 Perused application and say. Heard both sides

3 On 26/11/2022 at the instance of one Prakash Ganpati Bhat aforesaid offence came to be registered.

As mentioned in the FIR, the aforesaid informant is engaged in the business of manufacturing Air Cooler “ Varnada Industries Private Limited ”. The informant was having annual turn over upto Rs. 107 Crores. However, in the wake of Covid-19 Pandemic his company came under financial crisis and turn over of the company reduced upto Rs. 20 Crores. In order to enhance manufacturing the informant was in need of loan. The loan account of the company had come under NPA in view of the outstanding of the Canara Bank, therefore, the applicant was searching for private loan. The complainant had shown his difficulty to his friend Anil Bakshi. Accordingly, the complainant was introduced with co-accused Sham Talreja through one Sartaz Mirza. Co-accused Sham Talreja contacted the informant by visiting in his office. At that time, Sham Talreja made a representation that he is having some private lenders who provides loan of Rs. 100 Crores for which the complainant would have to pay Rs. 5,00,000/- by way of Mandate fee. The complainant transferred on-line Rs. 2,50,000/- on 07/07/2021 and Rs. 2,50,000/- on 15/07/2021 in the “ Right Solutions ” account of Sham Talreja. The complainant was thereafter called in J.W. Marriott hotel. When the complainant went in the hotel along with his son, he was introduced with the present applicant by Sham Talreja. At that time, the applicant had shown his readiness to advance loan after inspecting the company. On 21/07/2021 and 22/07/2021 Sham Talreja visited in the company of the complainant at Pune and Nashik respectively along with one Hitesh Purasnani.

4 After one week Sham Talreja contacted with the complainant and asked him to purchase the stamp paper for preparing agreement. The complainant was thereafter, called in J.W. Marriott hotel where he had obtained signature of the complainant and his son on the loan agreement and on the blank paper. Sham Talreja asked the complainant to deposit Rs. 18,42,870/- by contending that thereafter, loan will be disbursed. Accordingly, on 07/08/2021 the complainant deposited the said amount in the account of Sham Talreja through RTGS. However, neither any insurance policy has been issued nor any such loan has been disbursed to the complainant. On being found that the complainant has been cheated under the false representation of disbursement of loan by the accused persons, report came to be lodged accordingly.

5 By this application, the applicant has contended that no any role is attributed to him. He is innocent and he has nothing to do with this crime. The applicant neither demanded nor received any amount from the complainant. No any documents, property or thing was entrusted to the applicant. Entire allegations are vague and there is nothing to show that the applicant shared common intention with other co-accused in committing this offence. FIR has been lodged after the period of more than one year and three months without any explanation for delay. The entire complaint is of an afterthought. The applicant is having permanent resident in Mumbai. There are no earlier antecedent on the part of this applicant. He is ready to abide the conditions imposed by the court. The applicant, therefore, prayed for her release on anticipatory bail.

6 Application is resisted by the prosecution vide say at Exh. 03 mainly on the ground that the offence is serious one. Necessary information is to be elicited from the applicant and his friend. Another co-accused in this crime is habitual offender. It is thus, contended that the application is liable to be rejected.

7 After considering the submissions of learned advocate for the applicant and learned APP, I have also gone through the case diary. Having regard to the entire facts and circumstances in the light of respective submissions, it reveals that the co-accused Sham Talreja had not only obtained the aforesaid amount of Rs. 23,42,870/- from the complainant but he also introduced the complainant with the present applicant by calling the complainant in J.W. Marriott hotel. The complainant has specifically stated that in J.W. Marriott hotel the applicant had shown his readiness to advance loan subject to inspecting the company premises through Sham Talreja. Considering these circumstances, even if the aforesaid amount has been transferred in the account of Sham Talreja, applicant is having active participation in representing the complainant to deposit Rs. 18,42,870/- for advancing loan. There are prima-facie allegations that the complainant was defrauded by Sham Talreja and the present applicant in furtherance of their common intention. As can be seen from the case diary, co-accused Sham Talreja is the habitual offender against whom several offences are registered in the year 2022 not only in the State of Maharashtra but in other states also he has committed similar kinds of offence.

8 Considering the nature of the offence which is grave and serious, in my view, custodial interrogation of the applicant will be

required to elicit material information. The learned advocate for the applicant also relied upon **Raosaheb Patole Vs The State of Maharashtra in Criminal Bail Application No. 373 of 2011, dtd. 24th March, 2011 the Hon'ble Bombay High Court.** However, the said offence is pertaining to robbery. On the other hand, the present case is relating to the offence of criminal breach of trust and cheating which is socio-economic in nature. Therefore, I am of the view that no prima-facie case is made out by the applicant for exercising discretion under section 438 of the Code of Criminal Procedure in his favour. In this view of the matter, following order is passed :

ORDER

- 1) Anticipatory Bail Application No. 2001 of 2022 is hereby rejected and disposed of accordingly.
- 2) The concerned Police Station be informed accordingly.

Dt. 27/12/2022

sd/-
(R.M. MISHRA)
Additional Sessions Judge,
Borivali Div., Dindoshi, Mumbai

Dictated on : 27/12/2022
Transcribed on : 27/12/2022
Checked on : 27/12/2022
Signed on : 27/12/2022

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

27/12/2022 at 4.14 p.m.
UPLOAD DATE AND TIME

Mrs. S.B. Vichare
NAME OF STENOGRAPHER

Name of Judge (with Court room no.)	HHJ R.M. Mishra, City Civil & Sessions Court, Borivali Div., Dindoshi, Mumbai (C.R.No. 04)
Date of Pronouncement of JUDGEMENT/ORDER	27/12/2022
JUDGEMENT/ORDER signed by P.O. on	27/12/2022
JUDGEMENT/ORDER uploaded on	27/12/2022