

::1::

ABA.2043/2022

MHCC050068052022



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

**ANTICIPATORY BAIL APPLICATION NO.2043 OF 2022**  
**(CNR NO. MHCC050068052022)**

**Dharmesh Devendra Jain,**  
Age: 41 years; Occ: Business,  
Residing at-605, Alkapuri Apartment,  
Akruli Cross Road, Opp. Kalpataru  
tower, Kandivali, Mumbai.

**...Applicant/Accused**

**V/s.**

**1. State of Maharashtra**  
**( Through, Sr. Inspector of Police,**  
**Kandivali police station).**

**....Respondent.**

Ld. Advocate Ashok Yadav for the Applicant/ Accused.

Ld. Advocate Rohit Singh for intervener.

Ld.APP Smt. Usha Jadhav for the State.

**CORAM: H.H.THE ADDITIONAL SESSIONS JUDGE**  
**SHRI N.L.KALE**

**(C.R.NO.14)**

**DATE : 3rd January, 2023.**

**ORDER**

This is an application u/s.438 of the Criminal Procedure Code  
1973 filed by the applicant for seeking Anticipatory Bail in C.R.No.

::2::

**ABA.2043/2022**

1394/2022, registered at Kandivali police station, for the offences punishable under sections 420, 465, 468 & 471 of the Indian Penal Code, 1860 r/w Section 51 & 63 of Copyrights Act 1957.

**Brief facts which gives rise to file the present application are as under: -**

2. That, the complainant Subhash Jaiswal is working as Chief- Investigative Officer in S.G.S.I.P.R. consultancy Company. Asian Paints Ltd. Company has authorised the complainant's Company to take action and to find out any infringement of copyrights of their products. Accordingly, complainant has given a training by Asian Paints Company for the same. On 11/11/2022 the complainant, police staff, panchas raided Bhavani Paints Shop situated at Akansha Arked, Trikamdas Road, Kandivali (West). They raided the said shop as an information was received to the complainant that bogus and duplicate sell of products of Asian Paints Company is going on in the said shop.

3. When the complainant, police and panchas raided the said shop at that time, person namely Dharmesh Jain (Applicant) was present on a counter of said shop. Raiding party informed the purpose of their visit to the applicant. In search of said shop they found cans containing Asian Paints colour. Logo present on said cans was different one. So also a font of sticker/words on those cans is different one than original font. It was also noticed that, Bar Code present on those cans was destroyed. Hence, complainant come to conclusion that, the contains in those cans were not of Asian Paints Company but, the said paint was duplicate one. In said raid police seized muddemal amounting to Rs.7,17,540/-i.e. duplicate

products of Asian Paints Ltd. Company. The said muddemal kept by this accused for the purpose of selling to customers.

4. Therefore, a complainant lodged report with police on the basis of which the present crime is registered against the applicant and other co-accused persons.

5. Now, by filing this application, the accused claiming pre-arrest bail for them. According to them, they are not concerned with alleged duplicate seized muddemal. According to them, they have purchased the same from other retailer for Asian Paints etc. They further alleged that, they have not destroyed Bar Code present on seized muddemal. They are ready to co-operate to investigation and now nothing is to be seized from them.

6. This application is strongly resisted by the prosecution by filing reply vide Exh. 2. According to prosecution, offences alleged are serious and heavy quantity of duplicate muddemal of Asian Paints product is found in possession of the accused. Prosecution further contained that, the applicant deliberately destroyed/ tampered Bar Code present on those boxes and cans. According to prosecution, for detail investigation, custodial interrogation of the applicant is necessary.

7. In this matter, intervener(Org. complainant) is appeared and he also strongly resisted the prayer by filing written objection vide Exh.3. According to him, offences alleged against both the applicant is serious.

The applicant fabricated, forged and erased Bar Code on seized muddemal with an intention to destroy the evidence only. He prays to reject the prayer.

8. Heard Ld. Advocate appearing for the applicant and Ld. APP Smt. Jadhav and Ld. Advocate for original complainant. Perused written objection filed by original complainant.

9. Ld. advocate of the applicant relied upon an order dated 22/12/2022 passed in ABA No. 2029 of 2022 filed by co-accused-Ramsurat Gupta. By the said order, one of the co-accused is released on anticipatory bail by this Court itself. Ld. advocate for applicant submitted to grant pre-arrest bail to him on a ground of parity.

10. It is a fact that, investigation in this matter is going on. But, on perusal of an order in ABA No.2029 of 2022 it reveals that, one of the co-accused in this crime in whose possession similar kind of muddemal was found is released on anticipatory bail by this Court itself. In that order, specific findings are recorded to effect that, already disputed muddemal is recovered and custodial interrogation of the said applicant is not necessary. From the said order, it further appears that other co-accused in this crime is also released on anticipatory bail by an order in ABA No. 1990 of 2022. Thus, it appears that, other co-accused in this crime against whom similar charges are levelled have been released on pre-arrest bail. The case of present applicant and those co-accused, to whom anticipatory bail has been granted stands on same footings. In a result, the applicant is

entitled for pre-arrest bail on a ground of parity.

11. Considering the above facts and also considering the fact that, already muddemal in this crime is recovered, I am of the view that, this is a fit case in which discretion can be used in favour of the applicant. Hence, I pass following order.

**ORDER**

1. Anticipatory Bail Application No.2043/2022 is allowed.
2. The applicant -**Dharmesh Devendra Jain**, be released on anticipatory bail on executing personal bond in the sum of Rs.20,000/- (Twenty Thousand Rupees Only) with one or two sureties in the like amount, in the event of his arrest in Crime No.1394/2022 registered with Kandivali Police Station for the offence punishable under Sections 420, 465, 468 and 471 of I.P.C. r/w Section 51 and 63 of Copyrights Act, on the following conditions:
  - (i) He shall attend police station twice a month i.e. on 1st and 15th day of month till filing of charge-sheet.
  - (ii) He shall co-operate with the Investigation Officer.
  - (iii) He shall not tamper with the prosecution evidence.
  - (iv) He shall not travel abroad without previous permission of the Investigation Officer during investigation and after filing of charge-sheet of the learned Metropolitan Magistrate.
  - (v) He shall remain present on the day of filing of charge-sheet, if any, filed in the court of Magistrate.
3. Inform the concerned Police Station, accordingly.

::6::

**ABA.2043/2022**

4. Anticipatory Bail Application No.2043/2022 stands disposed of, accordingly.

**(Order pronounced in open Court)**

**Date: 03.01.2023**

**(N.L.KALE)  
THE ADDL.SESIONS JUDGE  
CITY CIVIL & SESSIONS COURT,  
BORIVALI DIVISION, DINDOSHI**

Order dictated on Computer : 29.12.2022  
Order typed on : 03.01.2023  
Checked, corrected & Signed on : 03.01.2023

::7::

**ABA.2043/2022**

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

UPLOAD DATE

AND TIME : 03/01/2023 at 04.15 P.M.

Ms. S.S.Chudji

NAME OF STENOGRAPHER

Name of the Judge (with Court Room No.)	HHJ Shri <b>N. L. Kale</b> (Court Room No.14)
Date of Pronouncement of Judgment/Order	03/01/2023
Judgment/Order signed by P.O. on	03/01/2023
Judgment/Order uploaded on	03/01/2023

::8::

**ABA.2043/2022**