



**IN THE COURT OF SESSIONS AT DINDOSHI
(BORIVALI DIVISION), GOREGAON, MUMBAI**
ANTICIPATORY BAIL APPLICATION NO.1921 OF 2022
IN
(C. R. No. 1278 of 2021 of Saki Naka Police Station)

Mr. Hajarilal Ramugra Yadav,]
Age 43 years, Occ : Business,]
Residing at House No.D-103,]
Anadi Park, New Talati Road,]
Kamath Ghar, Bhiwandi,]
Dist : Thane 421 305.] ...Applicant

Versus

The State of Maharashtra,]
At the instance of Sakinaka Police]
Station.] ...Respondent

Ld. Adv. Palekar for the applicant.
Ld. APP Mrs. Usha Jadhav, for the State.

**CORAM : SHRI M.I. LOKWANI,
ADDITIONAL SESSIONS JUDGE,
COURT ROOM NO.10.**

DATE : 19th December, 2022

ORAL ORDER

This is an application filed by the applicant under Section 438 of the Code of Criminal Procedure 1973, for granting anticipatory bail in connection with Crime No.1278/2021, registered with Saki Naka Police Station for the offences punishable under Sections 406, 420, 465, 468,

471, 506 r/w. 34 of the Indian Penal Code.

2. The factual matrix of the prosecution case is that, since 1997, complainant Shri Suresh Kumar Kanhiyalal Yadav was doing the repairing and maintenance work in Century Road Transport Pvt. Ltd. At that time, accused Brijesh Kumar Mishra came in contact with complainant and became friend. Thereafter, in the year 2004, the complainant and accused decided to purchase a container but they could not purchase the same as they were unable to obtain loan, as such, the owner Shree Raj Kumar Gupta made an arrangement to purchase the vehicle for them. Accused Brijesh Kumar and complainant were regularly depositing the monthly installments. In the year 2006, they had purchased two (2) truck containers in the name of complainant. Thereafter, in the year 2007, accused Brijesh Kumar Mishra and complainant have purchased eight (8) truck containers. Out of which one (1) vehicle was in the name of applicant's father and remaining seven (7) were standing in the name of complainant. There was progress and profit in the business, as such, the complainant and accused Brijesh Kumar Mishra had formed "Safe Cargo Courier Company" i.e. partnership firm and prepared Partnership Deed between accused Brijesh Kumar Mishra and complainant in the profit sharing ratio of 50% each. The office of the said partnership firm was situated at A/1, Jai Bharat Housing Society, Behind Shree Ganesh Mandir, 90 Feet Road, Sakinaka, Mumbai 400 072. They had opened an account, prepared a Pan Card and relevant documents and started the partnership business. In the year 2009, they started selling old container trucks one by one and purchasing new Motor Truck Containers in the name of partnership firm. In the year 2016, there were total 24 Trucks Containers in the name of Company. There were nine (9) containers standing in the name of complainant and seven (7) containers were

standing in the name of accused Brijesh Kumar Mishra. In the year 2015, accused Brijesh Kumar Mishra had formed company namely, "M/s. Safe Trans System" in his own name and opened bank account. It is alleged by the complainant that accused Brijesh Kumar Mishra forged his signature for opening bank account, agreement and Gumasta License, as such, the complainant asked about the same for forging signature. But accused Brijesh Kumar Mishra had given unsatisfactory answer. It is alleged that, in the year 2017, co-accused Prashant Brijesh Kumar Mishra started helping in the company. At the same time, firm business expanded and started courier service. Thereafter, Prashant Mishra started business with the firm and thereafter, the complainant and accused Brijesh Kumar Mishra themselves started business for Prashant Mishra and opened the business in the name of "Shree Siddhivinayak Logistic". The business was in progressive. In the month of March, 2019, the complainant was in use of Car Info APP. He entered Truck Container No.MH-04-HD-1531 and he came to know that the said vehicle was transferred in the name of Brijesh Kumar Mishra. On that occasion, accused Brijesh Kumar Mishra stated that they are in process of converting their firm into Pvt. Ltd. Company. Therefore, accused Brijesh Kumar Mishra had transferred five (5) vehicles in his name. The complainant told accused Brijesh Kumar Mishra that, if he would have informed him about the same, he himself would have transferred the said vehicle in the name of accused Brijesh Kumar Mishra. But without his knowledge he had forged his signature and transferred the said vehicle in the name of accused Brijesh Kumar Mishra by stating that accused Brijesh Kumar Mishra had disconnected the phone call of the complainant. Thereafter, when complainant verified by putting number of each vehicles, then he came to know that all nine (9) vehicles, which were in the name of complainant were transferred in the name of

Prashant Mishra, likewise, the vehicle stands in the name of complainant i.e. MH-04-HD-1531 estimated cost of Rs.1,20,15,000/- and twelve (12) vehicles were transferred in the name of accused Brijesh Kumar Mishra and seven (7) vehicles, which were standing in the name of complainant and thirteen (13) vehicles, standing in the name of M/s. Safe Cargo Courier. The estimated cost of the said vehicles was Rs.1,60,00,000/- sold to other person without his knowledge and committed an offence of cheating while transferring the said vehicles in the name of accused Brijesh Kumar Mishra and his son Prashant. It is alleged that they both had forged the signature on the paper of RTO Transfer Form and deceived the complainant to the tune of Rs.2,80,15,000/- for the benefit of accused Brijesh Kumar Mishra. When complainant inquired about the same, accused Brijesh Kumar Mishra abused and threatened the complainant to cause his death. Therefore, the complainant lodged report to Saki Naka Police Station. On the report of complainant, Crime No. 1278/2021 came to be registered against the applicant for the offence punishable under Section Sections 406, 420, 465, 468, 471, 506 r/w. 34 of the Indian Penal Code.

3. The Ld. Advocate for the applicant submitted that applicant Hajarilal Yadav is no concern with the alleged crime nor he has committed any offence. The name of the applicant not mentioned in FIR. The allegations made against him are false. He is ready to abide any condition imposed upon him. Lastly prayed for allow the application.

4. Per Contra, Ld. APP raised objection in view of reply at Ex.2 and submitted that after registration of crime accused Brijesh Kumar Mishra

and Prashant Kumar Mishra, have sold Truck No. MH-04-DS-7901, MH-04-EBR-7321 and MH-04-EN-1471 sold to one Vithal Dinkar Navsare. It is submitted that Vishal Navsare paid the amount to the accused persons, out of the said amount, some amount came to the account of applicant Hajarilal Yadav therefore, in that regard notice issued to the applicant for inquiry but applicant did not come. Ld. APP submitted that I.O. is not desire to arrest the applicant but wants to make inquiry. Lastly prayed for reject the application.

5. In view of aforesaid discussion, it appears that the name of applicant not appeared in FIR. There is no role attributed to the applicant. There is no such allegations made against the applicant only for the purpose of inquiry police called him by issuing notice. I.O. himself submitted there is no requirement to arrest the applicant, but only wants to make inquiry. It appears that there is nothing to be recovered from the applicant and therefore, custodial interrogation of the applicant is not warranted. In view of aforesaid reason, it would be appropriate to release the applicant on pre arrest bail. Hence, I proceed to pass following order.

ORDER

1. Anticipatory Bail Application No.1921/2022 is hereby allowed.
2. In the event of arrest of the applicant-Hajarilal Ramugra Yadav, he be released on bail on executing P.R. Bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with one or two sureties of like sum in connection with Crime No.1278/2021 registered Sakinaka Police Station for the offence punishable under Sections 406, 420, 465, 468, 471, 506 r/w. 34 of the Indian Penal Code, on following conditions :
 - i) He shall attend the Sakinaka Police Station on 15th day of every month from 10.00 am to 01.00 pm till filing of

charge-sheet and to co-operate the IO in investigation.

- ii) He shall not tamper with prosecution evidence.
- iii) He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade them from disclosing such a fact to the court or to any police officer.
- iv) He is directed to furnish his local & native address and his contact numbers to Sakinaka Police Station.
- v) Inform to the Sakinaka Police Station.
- vi) If any condition is violated by the applicant, his bail will liable for cancellation.

3. Anticipatory Bail Application No.1921/2022 stands disposed of accordingly.

Dictated and pronounced in open Court.

(M.I. LOKWANI)

Dt. 19/12/2022

Additional Sessions Judge,
Borivali Div., Dindoshi, Mumbai

Dictated on : 19/12/2022

Transcribed on : 19/12/2022

Checked & Signed by HHJ on : 20/12/2022

CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.” UPLOAD DATE AND TIME 20.12.2022 AT 04:30 P.M. NAME OF STENOGRAPHER PRASAD S. TARE	
Name of Judge (with Court room no.)	HHJ Shri M.I. Lokwani, City Civil & Sessions Court, Borivali Div., Dindoshi. (C.R.No.10)
Date of Pronouncement of JUDGEMENT/ORDER	19/12/2022
JUDGEMENT/ORDER signed by P.O. on	20/12/2022
JUDGEMENT/ORDER uploaded on	20/12/2022 (Corrected as Anticipatory Bail Application at the bottom of the operative part of the order and again uploaded)

