



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

ANTICIPATORY BAIL APPLICATION NO.2008 OF 2022
(CNR NO.MHCC05-006691-2022)

IN

C.R. NO.1329/2022
(POLICE STATION, BORIVALI)

Mr. Imtiyaz Abdul Latif Shaikh)
Aged: 48 years, Occ: Service,)
Residing at E-602, Green Avenue Building,)
Shanti Park, Near St. Xaviers High School,)
Mira Road East, Mira-Bhayandar,)
Thane – 401 107.) ..Applicant

Vs.

1. The State of Maharashtra)
2. Senior Inspector of Police,)
(Borivali Police Station)) ..Respondent

Adv. Mr. Rishi Bhuta for the applicant.
APP Mr. Sachin Jadhav for the State.

Coram : His Honour Addl. Sessions Judge,
Ashish Ayachit
(C.R.No.8)

Date : 19th December, 2022.

ORDER

This is an application for anticipatory bail in respect of
Crime No.1329/2022 registered with Borivali Police Station for the
offence punishable under Sections 420 and 170 r/w section 34 of I.P.C.

2. Perused the application and say of Investigation Officer.
3. Heard Adv. Mr. Rishi Bhuta for the applicant and APP Mr.

Sachin Jadhav for the prosecution.

4. Learned Adv. for the applicant relied upon case of (i) *Roshni Biswas Vs. State of West Bengal & Anr. Decided by the Hon'ble Supreme Court of India on 25.10.2020 in Petition for Special Leave to Appeal (C) No.4937/2020*, (ii) *Pravin Dnyaneshwar Shinde Vs. The State of Maharashtra decided by the Hon'ble Bombay High Court on 5.08.2022 in Anticipatory Bail Application No.2142/2022* and (iii) *Radhika Devendra Shinde Vs. The State of Maharashtra, decided by the Hon'ble Bombay High Court on 18.08.2022 in Anticipatory Bail Application No.2228/2022*. According to the learned advocate for applicant, in *Radhika Devendra Shinde (supra)*, the Hon'ble Bombay High Court has been pleased to direct to give notice of 72 years in case when the application for anticipatory bail is filed. He filed copies of above case laws. He submitted that in view of the guidelines issued by the Hon'ble Apex Court in the case of *Arnesh Kumar Vs. State of Bihar & Anr. (2014) 8 SCC 273*, the Court is under obligation to grant anticipatory bail. He read the judgment of the Hon'ble High Court and requested to grant anticipatory bail.

5. I have carefully gone through the cited judgments by the learned advocate. Let me note that the offence punishable under Section 420 of I.P.C. is non-bailable offence. In the present case, the applicant/accused represented himself as officer of MHADA and obtained money from the informant. The Investigation Officer issued notice under Section 41A(1) of Cr.P.C. to the applicant but instead of complying the notice, the applicant approach this court to grant anticipatory bail.

6. I have kept in mind the directions given by the Hon'ble Apex Court as well as Hon'ble Bombay High Court in the cited judgment. The

Investigation Officer has strongly opposed the pre-arrest bail application on the ground that the amount i.e. stolen property obtained by cheating is yet to be recovered. Moreover, the Investigation Officer wants to investigate whether any other person involved in the crime. Investigation Officer has filed detail say. I have carefully gone through the say as well as report lodged by the informant. It prima facie shows involvement of the applicant. The offence is serious in nature. The custodial interrogation of the applicant is necessary. The applicant/accused has not made out any case for granting anticipatory bail. He has not complied with the notice issued by the Investigation Officer.

7. So far as submission of learned advocate that 72 hours notice is necessary, in the given facts and circumstances of the present case, I do not find any substance in his submission. The case laws cited are also not applicable to the facts and circumstances of the present case. In view of recent judgment of the Hon'ble Supreme Court of India in the case of *Vijaykumar Gopichand Ramchandani Vs. Amar Sadhuram Mulchandani & Ors., reported in 2022 LiveLaw (SC) 1010*, the passing of direction to issue 72 hours advance notice of intention of arrest is not proper. In such circumstances, the application fails and I proceed to pass following order :-

ORDER

Anticipatory Bail Application No.2008/2022 is rejected and stands disposed off, accordingly.

Date: 19.12.2022

(Ashish Ayachit)
Additional Sessions Judge,
City Civil & Sessions Court,
Borivali Division, Dindoshi
Goregaon, Mumbai

Dictated by HHJ on : 19.12.2022
Transcribed on : 19.12.2022
Signed by HHJ on : 19.12.2022

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

UPLOAD DATE AND TIME : 20.12.2022 2.50 P.M. ATUL SURYAKANT BHOGTE
NAME OF STENOGRAPHER

Name of the Judge (with Court Room No.)	HHJ Shri Ashish Ayachit (Court Room No.8)
Date of Pronouncement of Judgment/Order	19.12.2022
Judgment/Order signed by P.O. on	19.12.2022
Judgment/Order uploaded on	20.12.2022