

MHCC050066492022



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

**ANTICIPATORY BAIL APPLICATION NO.1997 OF 2022**

**IN**

**C. R. No.1027 OF 2022**

1. Jignesh Rasiklal Vasani  
Age 37 years, Occ.: Business,
2. Rasiklal Chandulal Vasani  
Age 55 years, Occ. : Retired,
3. Neha Rasiklal Vasani  
Age 52 years, Occ. : Homemaker
4. Jatin Rasiklal Vasani  
Age 32 years, Occ. : Business,

All R/a. A/501, New Trinity Bldg.,  
Tank Road, Orlem, Malad (West),  
Mumbai – 400 064

...Applicants/  
Accused

V/s.

The State of Maharashtra  
(At the instance of Charkop Police Station, Mumbai)

.....Respondent

Adv. Dattatray Adarkar for applicants/accused.  
APP. Mr. Mahajan for State/respondent.

**CORAM : H.H. Additional Sessions Judge,**

**Shri S. N. Salve.**

**Court Room No.15.**

**Date : 28<sup>th</sup> December, 2022**

**ORAL ORDER**

This is an application Under Section 438 of the Code of Criminal Procedure (for short, Cr.P.C.) moved by applicants-accused for grant of bail in the event of their arrest in connection with Crime No.1027/2022 registered with Charkop Police Station Under Sections 376 (2) (n), 420, 406 and 506 read with section 34 of the Indian Penal Code (for short, the IPC).

2. The applicants are appending their arrest in connection with the aforesaid crime registered with Charkop police Station at the instance of report lodged by the informant. The applicant No.1 is the main accused as arraigned in the FIR. Applicant Nos.2 to 4 are the father, mother, brother and sister-in-law of the applicant No.1. The applicants were called at police station and were enquired concerning the allegations for the above offences. It is alleged by the informant that applicant No.1 and the informant herself have been friends for a long time. They have made transactions with respect to sale and purchase of used cars where the applicant No.1 acted as broker for her. It is alleged that on visit by the applicant No.1 somewhere in July, 2022 made the informant to consume alcohol and had sexual intercourse with her and thereafter he promised the informant that he would marry with her. It is further alleged that while leaving, the applicant No. 1 forcefully took away ₹ 2.50 crores cash lying in her wardrobe.

3. According to the applicants, they have not committed the offence as alleged by the informant and have been falsely implicated in the aforesaid crime. They contended that after

successful dealings, the applicant No.1 and the informant developed friendly relations. According to the applicants, the informant introduced the applicant No.1 to her builder friend who quoted a good price for sale of 2 BHK and the applicants decided to purchase three 2 BHK flats at ₹ 1.10 crore each. Accordingly agreement for sale were executed. However, the informant and the builder started demanding more money for the said flat. The informant and the builder started threatening the applicants with dire consequences if they fail to pay demanded additional amount of ₹ 40 lakhs for each flats. Ultimately, the applicants cancelled the deal and refunded the token amount. According to the applicants, applicant No.1 never indulged in sexual relations with the informant under any circumstances. Earlier, the informant had lodged the report of cheating to the tune of ₹ 2.50 crores against the applicant No.1. According to the applicants, they are in no way concern with the offence alleged against them. According to the applicants, their custodial interrogation is unwarranted. They undertake to abide by the terms and conditions, if any, imposed by the court. They also undertake to render their full co-operation to the Investigating Officer. Lastly, they prayed that they be enlarged on bail in the event of their arrest in connection with the aforesaid crime.

4. The prosecution has strongly opposed the application by filing Say. It is submitted by the prosecution that the offences alleged against the applicants are of serious in nature. It is submitted by the prosecution that the applicant No.1 by giving alcohol to the informant committed forceful sexual intercourse with her. It is submitted by the prosecution that prima facie case is made out against the applicants showing their involvement in the crime. It

is submitted that if the applicants are enlarged on bail, possibility of threatening the informant and fleeing away from justice cannot be ruled out. The prosecution, therefore, prayed that bail application be rejected.

5. I have heard the learned advocate for the accused and the learned APP for the State at length.

6. Having heard the learned advocate for the accused and the learned APP for the State, I have gone through the Application, Say filed by the prosecution and documents annexed with the application. The allegations of the prosecution is that the applicant No.1 made the informant to have drinks and he had forceful sexual intercourse with her and also taken the nude photographs of the informant in his cell phone and while leaving the house of the informant, he has taken away cash amount of Rs.2.50 crores which was lying in the wardrob of the informant. In so far as the applicant No.1 is concerned serious allegations are made against him, the cash amount of Rs.2.50 crores is to be recovered and the cell phone of the accused in which the nude photographs of the informant is taken is also to be recovered from the accused. For that purpose custody of the applicant No.1 is necessary with the police. Having considered the nature of allegations made against the applicant No.1, I am of the opinion that applicant No. 1 is not entitled for bail in anticipation of his arrest in the aforesaid crime.

7. In so far as the applicant Nos.2 to 4 are concerned, on going through the averments in the FIR and the say filed by the

Prosecution, it is not the case of the Prosecution that informant was entrusted the aforesaid amount of Rs.2.50 crores with the applicant Nos.2 to 4. It is also not the case of the Prosecution that any incriminating material is to be recovered at the instance of the applicant Nos.2 to 4. Having considered the nature of allegations made against the applicant Nos.2 to 4, I am of the opinion that there is no need of custodial interrogation in so far as applicant Nos.2 to 4 are concerned. It is also not the case of the prosecution that the applicant Nos.2 to 4 are having criminal antecedents. Having considered the nature of the allegations against the applicant Nos.2 to 4 and the fact that their custodial interrogation is unwarranted, I am of the opinion that this is a fit case to exercise power under Sec.438 of the Code of Criminal Procedure in so far as applicant Nos.2 to 4 are concerned.

8. After having considered serious allegations against the applicant No.1, he is not entitled for bail in anticipation of his arrest and after having considered the allegations against the applicant Nos.2 to 4, they are entitled for bail in anticipation of their arrest.

In the result, the following order is made :

### **ORDER**

1. Anticipatory Bail Application No. 1997 of 2022 is partly allowed as follows:-

i) Anticipatory Bail Application in respect of applicant No.1 Jignesh Rasiklal Vasani is rejected.

ii) The Charkop Police Station is directed that the applicant No.2, Rasiklal Chandulal Vasani, applicant No.3 Neha Rasiklal Vasani and applicant No.4 Jatin Rasiklal Vasani in C.R.No.1027/2022 registered with Charkop Police Station for the offence punishable under Sections 376 (2) (n), 420, 406 and 506 read with section 34 of the Indian Penal Code, in the event of their arrest, they be released on bail on furnishing their P.B. and S.B. in sum of Rs.15,000/- (Rupees Fifteen Thousand Only) each subject to following conditions :

(a) The applicant Nos.2 to 4 shall not directly or indirectly make any inducement, threat or promise to any other persons acquainted with the facts of the accusation against them so as to dissuade them from disclosing such facts to the Court to any other officer.

(b) The applicant Nos.2 to 4 shall attend the concerned police station from 11:00 am to 03:00 pm on each Tuesday, and as and when directed by the Investigating Officer under written intimation till filing of the charge-sheet or until further order whichever is earlier.

(c) The applicant Nos.2 to 4 shall not leave India without the prior permission of this Court.

iii) Breach of any of the conditions shall entail cancellation of bail.

iv). Inform to the concerned Police Station, accordingly.

2. Accordingly, Anticipatory Bail Application No.1197 of 2022 stands disposed of.

Dt.28/12/2022

**(S. N. SALVE)**  
Addl. Sessions Judge,  
City Civil & Sessions Court,  
Borivali Division, Dindoshi, Mumbai

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

UPLOAD DATE 02.01.2023  
AND TIME : 11.25 a.m.

Mrs. T. S. Bhogte  
NAME OF STENOGRAPHER

Name of the Judge (with Court Room No.)	HHJ Shri S. N. Salve (Court Room No.15)
Date of Pronouncement of Judgment/Order	28.12.2022
Judgment/Order signed by P.O. on	02.01.2023
Judgment/Order uploaded on	02.01.2023