

ABA 2078/2022

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ORDER

MHCC050069582022



**IN THE COURT OF SESSIONS, AT DINDOSHI
(BORIVALI DIVISION), GOREGAON, MUMBAI
ANTICIPATORY BAIL APPLICATION NO. 2078 OF 2022
(C. R. No.1054/2022)
(CNR NO.MHCC05-006958-2022)**

Mr. Jitubhai Javerbhai Parmar

Age – 43 years, Occ : Driver,
Residing at : Targhari, Rajkot,
Gujarat – 400093.

... Applicant/Accused

V/s.

The State of Maharashtra

(Through Amboli Police Station, Mumbai) **Respondent**

Ld. Advocate Mr. Vaibhav Shah for the Applicant/Accused.

Ld. APP Mr. Sachin Jadhav for The State.

**CORAM: H.H.THE ADDITIONAL SESSIONS JUDGE
SHRI. SHRIKANT Y. BHOSALE
(C.R.NO.9)
DATE : 2ND FEBRUARY, 2023**

ORDER

This is an application for pre-arrest bail under section 438 of Cr.P.C.

2. The applicant has an apprehension of arrest by Amboli police station in connection with C. R. No. 1054/2022 registered for the

offence punishable under section 379, 420 of The IPC.

3. The prosecution vide say Exh. 5 resisted the application.
4. Heard Ld. Adv Vaibhav Shah for the applicant and Ld. APP Sachin Jadhav for the State.
5. The case of the prosecution appears to be that the informant is having son and she wanted to perform marriage of the son, but inspite of efforts the marriage was not fixed. On 22.10.2022 informant heard sound from neighboring house. On visiting the said house the informant realized that accused is advising some ways for progress in life. The informant also sought her advise. Thereafter, the applicant kept the informant engaged in talking and meanwhile took two gold bangles, one gold ring and cash worth Rs. 2,000/-. The total cost of cheated amount was Rs. 1,12,000/-. The applicant states that he has been falsely implicated in this case, he has not committed any offence. However, to prevent tarnishing his image, the applicant showed his willingness to pay the alleged amount of cheating.
6. The matter was thereafter referred to mediation. Report of mediation Judge Exh. 10 states that mediation was successful. The intervenor i.e. the informant vide Exh. 9 has admitted that she has received the entire amount of cheating and thus, do not want proceed further.
7. Ld. APP however, objected the application saying that the offence is of serious nature, the articles stolen or cheated needs to be recovered, unless the applicant has been arrested investigation can not

be concluded.

8. Considering the fact that offence under section 420 of The IPC is compoundable. The informant has already received the amount and do not want to proceed further, in such circumstances, there is no possibility of any conviction, even the anticipatory bail is rejected. Therefore, it is just and proper to grant anticipatory bail with direction to attend the concerned police station so that the investigation officer can conclude the investigation in a proper manner. Hence, the order.

ORDER

1. Anticipatory Bail Application No. 2078 of 2022 stands conditionally allowed and disposed off.
2. In the event of arrest of applicant/accused **Jitubhai Javerbhai Parmar**, in aforesaid C. R. No. 1054/2022 for the offence punishable under sections 379, 420 of The Indian Penal Code, 1860, registered with Amboli Police Station, Mumbai, he be released on his executing P. R. Bond of Rs. 15,000/- (Rupees Fifteen Thousand Only) and on furnishing one surety of like amount and on accepting and complying following terms and conditions -
 - a) He shall not tamper with prosecution witnesses in any way.
 - b) He shall produce his Identity Card, address proof and furnish his mobile number as well as land-line number with bail papers.
 - c) He shall attend concerned police station on 06.02.2023 between 10.00 a.m. to 2.00 p.m. and thereafter, if required by the investigation officer by his order in writing.
 - d) He shall attend the trial regularly.
 - e) He shall not commit similar offence during on bail period.

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ORDER

3. The observation made in this order are restricted to this application only and the Trial Court shall not get influenced by the observation of this Court.

(Dictated and pronounced in presence of Ld. Advocate for Applicant & Ld. APP)

Date: 02.02.2023

(Shrikant Y. Bhosale)
The Addl. Sessions Judge
City Civil & Sessions Court,
Borivali Division, Dindoshi.

Dictated on : 02.02.2023
Transcribed on : 02.02.2023
Checked & corrected on : 03.02.2023
Signed on : 03.02.2023

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

Date : 04/02/2023

Time : 4.10 P.M.

UPLOAD DATE AND TIME

Ms. Tejal C. Rane

(Stenographer Grade-I)

NAME OF STENOGRAPHER

Name of the Judge (with Court room no.)

**HHJ S. Y. BHOSALE
(Court Room No.9)**

Date of Pronouncement of
JUDGMENT/ORDER

02.02.2023

JUDGMENT/ORDER signed by P.O. on

03.02.2023

JUDGMENT/ORDER uploaded on

04.02.2023