

MHCC050066362022



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

ANTICIPATORY BAIL APPLICATION NO. 1985 OF 2022

IN

( C. R. No. 833 of 2021 of Sakinaka Police Station, Mumbai )

**Kusum Yeshwant Keer @ Kusum Pravin Lankal @ Zoya Siddiqui,**

Age : 27 yrs., Occupation : service,

R/o : Room No. 505, Citizen CHS,

Shivajiraje Complex, Jankalayan Nagar, Kandivali West,

Mumbai-400 067

**..Applicant**

V/s

**The State of Maharashtra**

(through Sakinaka Police Station)

**..Respondent**

Ld. Adv. Roseline Nadar, for the applicant.

Ld. APP P.K. Mahajan, for the State.

**CORAM : H.H. THE ADDITIONAL SESSIONS  
JUDGE R.M. MISHRA  
(C.R.NO.4)**

**DATE : 7<sup>th</sup> January, 2023**

**ORAL ORDER**

This is an application for the grant of anticipatory bail under section 438 of the Cr.P.C., in connection with C.R. No. 833 of 2021 registered with Sakinaka Police Station, for the offence punishable under section 420 read with section 34 of the Indian Penal Code.

2 Perused application and say. Heard both sides.

3 On 03/08/2021 at the instance of one Nizamuddin Abdulla Ansari aforesaid offence came to be registered.

As can be seen from the FIR, the informant is engaged as sub-agent since last seven year by mediating between license holder company and candidates who are willing to do job in Gulf countries. In November 2020, he received one mail from Fareast Drilling Company Private Limited in which several vacancies were mentioned for several countries alongwith web-site and contact number of the said companies. When the informant made a phone call on the said number, he has called in the said office where the informant met with the applicant on the reception. At that time, the applicant got filled registration form from the informant and took him towards co-accused Saidul Rahman Mallick who was represented to be the Managing Director of the said company. At that time, the informant was represented by the co-accused that their company has arranged jobs to several candidates in abroad and asked the informant that he can furnish the names of candidates who are willing to do job in abroad. Relying on the representation of the co-accused, the informant sent documents of 200 candidates during the period from November 2020 to March 2021 through e-mail. As per the demand, the informant provided necessary documents of the candidates i.e. medical fitness, passport, photographs etc. to them. The informant was thereafter, informed that the offer letters and Visa of those candidates have been received and he was called upon to send the amount towards their flight tickets, Visa and amount of necessary charges. The informant was represented that Rs. 75,000/- per candidate will be required for Dubai, Rs. 65,000/- per candidate will be required for Maldives, Rs. 45,000/- per candidate will be required for Oman and Rs. 75,000/- per candidate will be required for South Africa. The informant collected the aforesaid amount from those candidates and sent the said amount in IndusInd bank account, as per

the representation of the accused persons. The informant collected total amount of Rs. 45,75,000/- from 114 candidates. He was informed by the accused persons that Rs. 25,00,000/- will have to be deposited in IndusInd bank account of their company, Rs. 20,000/- in R.B.L. Bank account of Fareast Drilling Company and to save GST Rs. 20,75,000/- will have to be paid in cash. Accordingly, the informant deposited Rs. 25,20,000/- in the respective accounts of Fareast Drilling Company's bank account and paid Rs. 20,75,000/- in cash between 23/12/2020 to 13/03/2021. Thereafter, the applicant and co-accused sent flight tickets of 51 candidates on the WhatsApp of the informant. On 15/03/2021 when the informant contacted with the applicant and the co-accused, their phones were switched off. On making online enquiry about Visa and flight tickets, it was found that those tickets were cancelled and Visa was not approved on account of non-payment/due for payment. When the informant rushed to their office, it was found closed. On being found that the informant has been cheated and defrauded by the accused persons, he lodged the report.

4 By this application, the applicant has contended that she is residing in Mumbai since last several years along with her husband. She is in advance stage of pregnancy and requires to take care of herself and unborn child. The applicant has no earlier criminal antecedent. A false case has been registered against the applicant. The applicant was acting on the instructions of the co-accused while serving under his employment. Therefore, the act committed by the applicant is not an offence. The applicant had no intention of cheating or to play fraud with the complainant. She was serving just as a receptionist on monthly salary of Rs. 15,000/- alongwith

traveling expenses. At the instance of co-accused, her name was mentioned as Zoya Siddiqui. The case of the prosecution is based on documentary evidence, therefore, her custodial interrogation will not be required. The applicant is pregnant lady and she is innocent. The applicant is ready to abide the terms and conditions imposed by the Court. The applicant, therefore, prayed for her release on anticipatory bail.

5           Application is resisted by the prosecution vide say at Exh. 03 mainly on the ground that the applicant had changed her name while committing the said offence and she was absconding. It has been disclosed by the co-accused during interrogation that the applicant has obtained Rs. 7,00,000/-. During the said period, cash amount has been deposited time to time in her bank account. The applicant has no permanent place of residence in Mumbai. Necessary information is to be elicited from the applicant. There is possibility of her absconding, if the applicant is released on anticipatory bail.

6           After considering the submissions of learned advocate for the applicant and learned APP, I have also gone through the case diary. Having regard to the entire facts and circumstances, it is necessary to mention that the applicant has actively participated in committing the said offence. No satisfactorily explanation has been put forth by the applicant as to why she has represented herself as Zoya Siddiqui. In application, the applicant has stated herself to be Kusum Yeshwant Keer @ Kusum Pravin Lankal @ Zoya Siddiqui. No doubt confessional statement of the co-accused before the police is not admissible, at this juncture, when the matter is under the preliminary stage of investigation, it can be seen that the main

accused has time to time deposited cash amount in the account of the applicant. The applicant is supposed to have obtained Rs. 7,00,000/- during the aforesaid period from the co-accused. After careful consideration of entire circumstances from the case diary, it is apparent that the offence is serious and socio-economic in nature. Several persons are shown to be engaged in the fraudulent business and huge amount has been collected from several candidates under the garb of arranging job in foreign countries.

7 Merely the applicant is pregnant is not ground for exercising discretion in her favour under section 438 of the Code of Criminal Procedure. The investigating machinery will not only be required to recover the amount but necessary information will also be required to be elicited by way of custodial interrogation of the applicant. The applicant has actively participated in committing the said offence by changing her name and identity. Considering all these circumstances, I am of the view that no case is made out by the applicant for grant of anticipatory bail. In this view of the matter, following order is passed :

**ORDER**

- 1) Anticipatory Bail Application No. 1985 of 2022 is hereby rejected and disposed of accordingly.
- 2) The concerned Police Station be informed accordingly.

sd/-

**(R.M. MISHRA)**

Additional Sessions Judge,

Borivali Div., Dindoshi, Mumbai

Dt. 07/01/2023

Dictated on	:	07/01/2023
Transcribed on	:	07/01/2023
Checked on	:	10/01/2023
Signed on	:	11/01/2023

CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.”	
11/01/2023 at 11.49 p.m. UPLOAD DATE AND TIME	Mrs. S.B. Vichare NAME OF STENOGRAPHER
Name of Judge (with Court room no.)	HHJ R.M. Mishra, City Civil & Sessions Court, Borivali Div., Dindoshi, Mumbai ( C.R.No. 04 )
Date of Pronouncement of JUDGEMENT/ORDER	07/01/2023
JUDGEMENT/ORDER signed by P.O. on	11/01/2023
JUDGEMENT/ORDER uploaded on	11/01/2023