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MHCC020175912022



**IN THE COURT OF SESSIONS FOR GREATER MUMBAI AT MUMBAI
ANTICIPATORY BAIL APPLICATION NO. 2872 OF 2022**

Nilofer Penwala]
Age : 56 years, Occ.: Business,]
R/at : EE Heights, Flat No. B/408,]
8th Floor, Above Jafferbhai Delhi Dalbar,]
S.V. Road, Jogeshwari (W),]
Mumbai 400 102.]...Applicant/accused

Vs.

The State of Maharashtra]
(Through L.T. Marg Pol. Stn., Mumbai.)] Respondent

Appearance :-

Mr. Dilip Shukla, Ld. Advocate for the Applicant.
APP absent.

**CORAM : H. H. THE ADDL. SESSIONS JUDGE,
SHRI A.A. KULKARNI (C.R. NO.24)**

DATED : 4TH JANUARY, 2023

(O R A L O R D E R)

(Dictated and pronounced in the open Court)

This is an application under Section 438 of Cr. P.C. for anticipatory bail. Heard Ld. Advocate for applicant and investigating officer for the State. Perused the application, say and documents on record.

2. The Ld. Advocate for applicant submitted that on the basis of information of informant, L.T. Marg police station registered Crime

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No.1074/2022 registered of Gamdevi police station for the offence punishable under Sections 420, 406, 409, 506 r/w 34 of IPC. As per allegation of informant, initially co-accused Akhtar Shaikh was introduced by one broker Riyaz Khan in the month of May 2021. Thereafter, transactions started between informant and co-accused Akhtar Shaikh. Initially, Akhtar Shaikh ordered gray colour fabric to informant. Informant sold goods from his firm Tvisha Textile. Co-accused Akhtar Shaikh immediately paid amount of that transaction. Thereafter, on the basis of reputation of co-accused Akhtar Shaikh, informant sold him goods worth Rs.1,23,63,346/- from his firm Tvisha Textile and Ayush Textile. Informant received amount of the transaction. Thereafter, from 1.09.2021 to 14.10.2021 informant delivered him goods from his firm Tvisha Textile as well as delivered goods from firm Ayush Textile. Informant alleged that on 1.12.2021 when informant went to demand his amount to co-accused Akhtar Shaikh, at that time, he asked him to not to come to demand money otherwise he will implicate him in false case. Informant further alleged that during transaction with co-accused Akhtar Shaikh, he introduced him with one Rakesh Goyal. Informant also sold him goods. Amount is fully not received. Cheque issued by Rakesh Goyal is also dishonoured. Informant further stated that co-accused Akhtar Shaikh introduced informant with applicant Nilofer Penwala. Informant also sold goods to her as per orders, but she also not paid amount to informant fully. Informant alleged that by gaining confidence, these persons have falsely represented him about their business and committed cheating of goods worth Rs.5,40,01,903/-. It is contention of Ld. Advocate for applicant that transaction between informant and applicant is pure civil transaction. As per allegation in FIR, itself show that applicant has paid amount to informant. In such circumstances, prima facie no offence is

made out under Section 420 of IPC and other sections. Offence is registered with intention to recover amount from applicant. Applicant Nilofer issued notice to informant on 13.03.2022 which is not replied and thereafter filed false report before police. Hence, it is his submission that offence is registered only with intention to harass applicant. Applicant is ready to co-operate police for the purpose of investigation. Hence, prayed for grant of anticipatory bail in the event of her arrest.

3. Investigating officer filed say and opposed application. It is his contention that various criminal and civil cases are registered against applicant before various police stations. Applicant is having criminal antecedent. She has committed similar offences in Maharashtra and Gujarat. If applicant is released on pre-arrest bail, she will create obstruction in investigation. Therefore, applicant is not entitled to be released on bail and prayed for rejection of application.

5. In view of submissions from both sides and on perusal of documents on record, it is clear that there were transactions between informant and applicant. Nature of transactions was business transactions. Informant received amount out of various transactions. In such circumstances, prima facie it can be stated that since inception intention of applicant was to deceive informant. Further it revealed that offence is registered with intention to recover amount pending with applicant. Though various cases appears to have been pending against applicant, most of them are due to dishonour of cheques. In such circumstances, I am of the opinion that in present case there is no need of custodial interrogation of applicant. For the purpose of investigation applicant may be directed to appear before investigating officer and co-

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operate. With such directions, application may be allowed. Hence, I pass the following order :-

ORDER

1. Anticipatory Bail Application No.2872 of 2022 is allowed.
2. In the event of arrest in Crime No.1074/2022 registered with L.T. Marg police station, the applicant Nilofer Penwala be released on bail on execution of P.R. bond of Rs.1,00,000/- with one or two sureties in the like amount on following conditions :-
 - a) Applicant shall attend L.T. Marg police station office for two days in week i.e. on Monday and Friday between 11.00 a.m. to 2.00 p.m. for the period of three months and co-operate investigating officer in investigation.
 - b) Applicant shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any Police Officer.
 - c) Applicant shall not leave India without previous permission of the Court.
3. Anticipatory Bail Application No. 2872 of 2022 is disposed of accordingly.



Date : 4.01.2023

**[A.A. KULKARNI]
ADDITIONAL SESSIONS JUDGE
GREATER MUMBAI**

Dictated on : 4.01.2023
Transcribed on : 4.01.2023
HHJ signed on : 4.01.2023

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“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.”		
Upload Date	Upload Time	Name of Stenographer
5.01.2023	5.00 p.m.	PRAJWALA V. PHODKAR
Name of the Judge (With Court Room No.)	HHJ SHRI. A.A. KULKARNI (CR 24)	
Date of Pronouncement of JUDGMENT /ORDER	4.01.2023	
JUDGMENT /ORDER signed by P.O. on	5.01.2023	
JUDGMENT /ORDER uploaded on	5.01.2023	