

MHCC050063032022



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

ANTICIPATORY BAIL APPLICATION NO.1898 OF 2022

IN

(No Crime Register at Kasturba Marg Police Station)

Rajesh Banwarilal Varma

Age : 48 years, Occ. : Business,
Residing at Flat No.103, Sai Krishna Vatika CHSL,
Nr. Jyoti Industry Estate, C. S. Complex,
Dahisar – 400 068.

..Applicant

Vs

State of Maharashtra

(Through Sr. Inspector of Police,
Kasturba Marg Police Station, Mumbai)

..Respondent

Ld. Adv. Shri. M. Mishra for the applicant.

Ld. APP Smt. Poornima Chauhan for the State/respondent.

**CORAM : SHRI A.R. QURESHI
ADDITIONAL SESSIONS JUDGE,
COURT ROOM NO.06.**

DATE : 23rd December, 2022

ORAL ORDER

1. Applicant namely “Rajesh Banwarilal Varma” has moved this application u/sec.438 of Cr.P.C. to release him on anticipatory bail in the event of arrest on apprehension of arrest in near future after registration of crime.

2. Read application. Heard learned counsel for the applicant Shri. Mishra. Further heard learned APP Smt. Poornima Chauhan for the respondent/state as well as IO PSI Kiran Borade, police station, Kasturba Marg at some length. Perused report of IO vide Exh.2 which is the say of the respondent side.

3. Further heard the complainant Rekha Amin in person to appear suo-moto before me.

4. Learned counsel for the applicant submits that no crime has been registered against applicant, only application/complaint is lodged by the complainant Rekha Amin as against applicant Rajesh Banwarilal Varma.

5. Admittedly, no crime is registered against applicant. However, applicant approached this court feeling apprehension about arrest in near future in connection with non-bailable offence. Hence, applicant submits to release him on anticipatory bail in the event of arrest.

6. However, I have gone through report of IO vide Exh.2, i.e. say of the prosecution. It prima facie discloses that the check issued by applicant Rajesh Banwarilal Varma in favour of the complainant's husband Deepak Amin is dis-honored for the amount of Rs.2,48,234/- (Rupees Two Lakh Forty Eight Thousand Two Hundred and Thirty Four Only) and that was transaction in between the complainant's husband and applicant about purchasing of building material by the applicant and applicant has refused to make payment. However, prima facie it appears to be case of civil nature as there was dealing in between the complainant's husband and applicant about purchasing and selling. According to the complainant Rekha Amin also orally discloses before this court about this transaction was in between her husband and applicant.

Prima facie it shows that when the applicant refused to make payment to the complainant, therefore, complainant Rekha Amin had lodged the complaint as against applicant Rajesh Banwarilal Varma but no crime is registered against him. In the circumstance, further prima facie I found that the police authority had also recorded the statement of the applicant Rajesh Banwarilal Varma on dated 23.11.2022. The xerox copy of the statement is on record wherein applicant has stated before the police authority that he had paid entire amount to the complainant's husband and nothing remains. No doubt complainant is claiming amount to the applicant and applicant as per his statement before police authority that he has made full payment. Now I again reiterate that transaction in between the complainant's husband and applicant is of civil nature. Hence, now no custodial interrogation of the applicant is required in this case. In such circumstances, I am inclined to allow this anticipatory bail application u/sec.438 of I.P.C. to release applicant on anticipatory bail in the event of arrest. Hence, application deserves to be allowed. Hence I proceed to pass following order.

ORDER

- 1) Application filed by **Rajesh Banwarilal Varma** u/sec. 438 of Cr.P.C. for claiming relief of Anticipatory bail in the event of registration of crime against him with Kasturba Marg Police station, Mumbai is hereby allowed as follows :-
- 2) Applicant **Rajesh Banwarilal Varma**, shall be released on anticipatory bail on executing P.R. Bond and Surety Bond of Rs.15,000/- (Rupees Fifteen Thousand Only) in the event of arrest after registration of crime on the following conditions.
 - i) Applicant shall assist the IO in investigation in future as and when required.
 - iii) Applicant shall furnish and produce his identity proof with full and correct permanent address with his mobile number, and/or change of

residence or mobile details if any from time to time to the investigating officer.

- 3) Anticipatory Bail Application no.1898 of 2022 is disposed of accordingly.
- 4) Order pronounced in Open Court.
- 5) Proceeding closed.
- 6) Parties to act upon the copy of roznama duly authenticated by Court Sheristedar.

Dt. 23/12/2022

(A.R.Qureshi)
Additional Sessions Judge,
Borivali Div.,Dindoshi, Mumbai

Dictated on : 23/12/2022

Transcribed on : 23/12/2022

Corrected on : 23/12/2022

Signed on : 23/12/2022

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

Uploaded on 31.01.2023 at 05.30 p.m. : Name of Stenographer Ms. R. A. Monde

Name of the Judge (with Court room no.)	HHJ A. R. Qureshi (C.R.No.6)
Date of Pronouncement of JUDGMENT/ORDER	23/12/2022
JUDGMENT/ORDER signed by P.O. on	23/12/2022
JUDGMENT/ORDER uploadead on	31/01/2023