



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

ANTICIPATORY BAIL APPLICATION NO.1902 OF 2022
(C. R. No.541/2022 of Charkop Police Station)

Miss Rubykumari Nageshwar Paswan,]
Aged about 21 years,]
Residing at Room No.2, Plot No.10,]
Akshata Society, Ganesh Nagar, MHADA,]
Kandivali (West),]
Mumbai 400 067.] ...Applicant

Versus

State of Maharashtra,]
(Through Charkop Police Station)] ...Respondent

Ld. Adv. Siddhiqui for applicant.
Ld. APP Usha Jadhav for State.

CORAM : SHRI M.I. LOKWANI,
Additional Sessions Judge,
Court Room No.10.

Date : 2nd December, 2022

ORAL ORDER

1. This application filed by applicant **Miss Rubykumari Nageshwar Paswan** under Section 438 of the Code of Criminal Procedure 1973, for granting anticipatory bail in connection with Crime No.541/2022 registered with Charkop Police Station for the offence punishable under Sections 420, 408 r/w 34 of the Indian Penal Code.

The brief facts of the prosecution case are as under :

2 It is alleged by the Complainant Mr. Rohit Ranjan Singh who is Manager of M/s. Rajnees Wellness Ltd situated at Industrial Estate, Kandivali (West), Mumbai. It is alleged that during the course of Company audit, it is noticed about deficiency of amount. During the scrutiny and checking of employees and all delivery boys, some transactions of delivery boy namely, Shri. Shivshankar Nageshwar Paswan found doubtful. In inquiry, Shivshankar Paswan stated that he used to accept cash payments from customers and keep the same with him while used to forward the screen shots available in mobile to the Complainant. From September 2021 till lodging of report, Shivshankar Paswan cheated the Complainant to the tune of Rs.23,50,000/-(Rupees Twenty Three Lacs Fifty Thousand Only). Out of the said amount Rs.11,00,000/-(Rupees Eleven Lacs Only) refunded by Shivshankar Paswan. Remaining Rs.12,50,000/-(Rupees Twelve Lacs Fifty Thousand Only) remained with Shivshankar Paswan. Hence, Complainant lodged the report at Charkop Police Station by crime No.541/2022 registered Under Sections 420, 408 r/w 34 of the Indian Penal Code.

3 The Ld. Advocate for applicant submitted that applicant is innocent and falsely implicated in this crime. The brother of applicant namely, Shivshankar Nageshwar Paswan, who was working as delivery boy with one firm namely, M/s. Rajneesh Wellness Ltd., since last few years. He was arrested in this crime. He was taken in judicial custody and on 14.06.2022, he was released on bail. It is submitted that present applicant appeared before Charkop Police Station in view of directions of Hon'ble High Court's order dated 22.11.2022. The applicant is ready

to abide any condition imposed upon her. There is nothing to recover or discover at the instance of applicant. Hence, her custodial interrogation is not warranted, therefore, prayed for release her on pre arrest bail.

4. Ld. APP raised strong objection in view of reply at Ex.2 and submitted that during investigation, it is found that on several occasions cash deposited and withdrawn from the account of present applicant. Remaining amount of Rs.12,50,000/- yet to be recovered, in that regard, applicant is not co-operating. It is submitted that offence is serious in nature. Hence, prayed for rejection of the application.

5. Considering the submission of both sides and gone through the record, it appears that police suspect the applicant. It is submitted that on several occasions amount deposited and withdrawn from the account of applicant. In view of Ex.B, it appears that applicant has followed the order of Hon'ble High Court dated 22.11.2022. She appeared on 24.11.2022, 25.11.2022 and 26.11.2022 at Charkop Police Station. In FIR, the name of applicant not appeared. The name of her brother appeared, who is already released on bail in view of order passed by Ld. Metropolitan Magistrate on 14.06.2022. However, Bank statement of the applicant placed on record for the period 01.12/2021 to 31.05.2021 shows that total withdrawn amount is Rs.5,02,803/- and total deposit amount is Rs.4,76,929/-. This itself shows during aforesaid period of five months more than Rs.4,70,000/- deposited in her account and more than Rs.5,00,000/- withdrawn by the applicant, in that regard investigation is required. As per reply at Ex.2, misappropriated amount yet to be recovered, but the applicant is not co-operating to I.O. If she is released on pre arrest bail, there is possibility to abscond. There is also possibility of involvement of the applicant. To recover the amount as

alleged in FIR custodial interrogation of the applicant is warranted.

6. Furthermore, specific directions given by Hon'ble High Court in order dated 22.11.2022 that if I.O. wants to arrest the applicant, he should give 72 hours notice to her, accordingly, on 26.11.2022, I.O. issued notice to the applicant and directed to remain present along with documents. However, as per reply of APP, applicant neither appeared nor produced the documents. This itself shows applicant is not co-operating to the police in investigation. Hence, custodial interrogation of the applicant is imperative to facilitate investigation. In view of above facts, circumstances and reasons mentioned above, this Court is not inclined to grant anticipatory bail in favour of the applicant. Hence, I proceed to pass following order.

ORDER

Anticipatory Bail Application No.1902 of 2022 filed by the applicant **Miss Rubykumari Nageshwar Paswan** in connection with Crime No. 541/2022, registered at Charkop Police Station for the offence punishable under Sections 420, 408 r/w 34 of the Indian Penal Code is hereby rejected and disposed of accordingly.

Dictated and pronounced in open Court.

(M. I. LOKWANI)

Additional Sessions Judge,
Borivali Div., Dindoshi, Mumbai

Dt. 02/12/2022

Dictated on : : 02/12/2022
Transcribed by steno on : : 02/12/2022
Checked & Signed by HHJ on : : 05/12/2022

CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.” UPLOAD DATE AND TIME 05.12.2022 AT 04.50 p.m. NAME OF STENOGRAPHER PRASAD S. TARE	
Name of Judge (with Court room no.)	HHJ Shri M.I. Lokwani, City Civil & Sessions Court, Borivali Div., Dindoshi. (C.R.No.10)
Date of Pronouncement of JUDGEMENT/ORDER	02/12/2022
JUDGEMENT/ORDER signed by P.O. on	05/12/2022
JUDGEMENT/ORDER uploaded on	05/12/2022