

MHCC050063722022



ANTICIPATORY BAIL APPLICATION NO. 1914 OF 2022

Shiv Sharan Chowdhury

Age: 48 years, Occ.: Business,
R/at:- D-702, Interface Raheja Heights,
Malad (West), Mumbai- 400 104.

...Applicant

V/s

The State of Maharashtra

(At the instance of Amboli Police Station,
Mumbai in CR No. 53/2022)

...Respondent

Smt Aarti Jadhav, Advocate for applicant.
Shri Ambekar, Addl. PP for the State/respondents.

Coram: His Honour Additional Sessions Judge,
Shridhar M. Bhosale
(C.R.No.1)

Date : 06th December, 2022.

ORDER

1. This is an application under Section 438 of Code of Criminal Procedure (hereinafter referred as "Cr.P.C.") for anticipatory bail on apprehension of arrest in connection with C.R. No. 53 of 2022 registered at Police Station, Amboli for the offences under Sections 406, 420 r/w 34 of Indian Penal Code (hereinafter referred as 'IPC').

2. In short, during the period February 2021 to October 2021 Mohamad Sajid Kamruddin Ansari as taken five video mixing Apple Company amount of Rs. 5,30,000/- from the informant Unicorn Info Solution Private Limited, B/301, Kotiya Nirman, New Link Road, Andheri (W), Mumbai and 18 video mixing Apple Company computer worth of Rs. 20,00,000/- from informant's friend Rohit Ravindra Sinh on rent and without their permission Mohamad Sajid Kamruddin Ansari sold said computer to third party and whereby committed cheating and misappropriation hence, report came to be lodged.

3. Perused the application and say. Heard Learned advocate Smt Aarti Jadhav for the applicant-accused and Learned Additional PP Shri. Ambekar for the State.

4. It is vehemently submitted by Learned advocate for the applicant-accused that there is name of applicant-accused is not mentioned in the FIR. He further submitted that earlier applicant was called by the police and he has co-operated investigation. He had earlier filed ABA no. 726/2022 but as it was assured that he would not be arrested the same was withdrawn. However, subsequently the police started pressurizing him to settle the matter otherwise he would be arrested. Hence, he lodged complaint to Additional Commissioner of police, Bandra Zone, Mumbai. He submitted that the applicant has demanded the computer from the Mohamad Sajid Kamruddin Ansari and paid the charges to Mohamad Sajid Kamruddin Ansari as assured by him that he is the owner. He further submitted that he came to know about the cheating, he has returned the

same. He further submitted that already investigation is over and charge-sheet has been filed and even in the charge-sheet name of the applicant is also not added as no role was revealed. But, still the police has told to him that his statement will be changed and he would be implicated in the offence. It is further submitted that to attract the provision under Section 420 of IPC there shall be a intention since inception to decisive the person against whom offence has been committed. He further submitted that considering the allegations the offence under Section 406 of IPC is not made out.

5. Per contra, Learned Additional PP submitted that the offence committed is grave in nature. He has purchased the stolen property and same required to be recovered and hence, custodial interrogation is necessary.

6. At very out say I would like to state that the applicant has made an allegations against the investigating officer during the argument. At one stage he made statement that on blank paper an his signature was obtained and very next time it has been submitted that a statement was recorded in Marathi and the same was not allowed to read and he is not acquainted language Marathi. Further he submitted that the police has told to him that the statement would be changed and he will be implicated.

7. There is no dispute that on 05/05/2022 applicant has visited to the police station and statement was recorded. On consideration of the case diary produced by the investigating officer who is present in the court clearly speaks that he has recorded the statement which speaks that

applicant has admitted about taken three Apple company iMac computer, one Apple company Laptop, one Apple company cylinder and four hard drive from Sajid Ansari in January, 2022 and his brother Shankar has also took one Apple company iMac computer on rent basis. However, Sajid Ansari has taken back the Laptop and three hard drive. It further states that he subsequently sold three Apple company iMac computer and one cylinder to one Firoj and one hard drive to Santosh. It is to be noted that the applicant is engaged in manufacturing short film and advertising. He has taken those articles on rent from Mohamad Sajid Kamruddin Ansari for video-audio editing purpose. The said statement is a part of the case diary and there is no any change appears to have been made. It come to notice to this court that nowadays the accused who are approaching the court making allegations to the police in the same way. The same practice has been adopted by the applicant.

8. However, on consideration of the investigation papers there is no material since beginning / inception when the Sajid Ansari has taken the instruments from informant, the applicant accompanied with him and had knowledge. Only material which can be gathered is that subsequently he has taken those articles on rent from Sajid Ansari. However, the documents produced by the applicant also clearly indicate that the said Sajid Ansari while handing those instruments to the applicant has taken the responsibility for the machine. Further, he is also accepted the amount. Therefore prima facie no material at this stage to show that involvement of the applicant for commission of offence under Section 420 or 406 against informant, along with accused Sajid Ansari. Therefore, in my considered opinion it would be proper to grant anticipatory bail. Hence, I pass the

following order :

ORDER

1. Anticipatory Bail Application No. 1914 of 2022 is hereby allowed.
2. In the event of arrest, applicant-accused Shiv Sharan Chowdhury in connection with C.R.No. 53 of 2022 registered at Police Station, Amboli for the offences under Sections 406, 420 r/w 34 of Indian Penal Code, he be released on executing PR Bond of Rs. 25,000/- (Rs. Twenty Five Thousand only), and the like amount with one surety.
3. Applicant-accused Shiv Sharan Chowdhury, shall report to the police station, Amboli from 08.12.2022 to 10.12.2022 in between 10.00 a.m. to 12.00 noon and shall co-operate to the investigating officer as and when required for the purpose of investigation.
4. Applicant-accused Shiv Sharan Chowdhury, shall not tamper the evidence
5. Anticipatory Bail Application No. 1914 of 2022 stands disposed off accordingly.

06.12.2022

(Sridhar M. Bhosale)
Addl. Sessions Judge
Sessions Court,
Dindoshi, Mumbai.

Date of dictation : 06.12.2022
Date of transcription by steno : 08.12.2022
Signed on : 09.12.2022

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

10.12.2022 at 5.15 p.m. UPLOAD DATE AND TIME	Mrs. J. S. Gole (H.G.STENOGRAPHER) NAME OF STENOGRAPHER
Name of the Judge (With Court Room No.)	H.H.1st A.P.J. Shridhar M. Bhosale Court Room No.1
Date of pronouncement of Judgment/Order	06.12.2022
Judgment/Order signed by P.O. on	09.12.2022
Judgment/Order uploaded on	10.12.2022