

MHCC050068882022



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

**ANTICIPATORY BAIL APPLICATION NO.2065 OF 2022**  
**IN**  
**C.R.NO.1009 OF 2022**

**Mrs. Shruti Mukund Panchal,**  
Aged : 36 years, Occu.: Housewife,  
Residing at : 302, Parth Residency,  
Plot No.27/28, Daftary Road No.2,  
Near Ganesh Mandir, Pushpa Park,  
Malad (East), Mumbai.

**...Applicant/accused.**

**V e r s u s**

**The State of Maharashtra  
(Dindoshi Police Station)**

**...Respondent.**

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Shri Pradeep Shukla, Advocate for the Applicant/accused.  
Shri Sidharth Sharma, Advocate for the intervener.  
Shri Imran K. Shaikh, A.P.P for the State.  
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**CORAM : A.Z.KHAN,**  
**Additional Sessions Judge,**  
**Borivali Division, Dindoshi, Mumbai.**  
**(C.R.NO.13)**  
**Date : 24<sup>th</sup> January, 2023.**

**O R D E R**

1. The present application is filed by the applicant/accused

for the Anticipatory Bail. Perused the application and say thereon vide Exh.2. Heard the learned advocate Shri Pradeep Shukla for the applicant/accused, the learned advocate Shri Sidharth Sharma for the intervener & the learned A.P.P Shri Imran K. Shaikh for the State. I have gone through the case papers, say of the police and the documents. It is seen that the present applicant/accused alleged to have been committed the offences punishable u/s 420 & 406 of The I.P.C in Crime No.1009 of 2022 wherein the offence is registered in Dindoshi Police Station, Mumbai.

2. It is pertinent to note here that the report lodged by the complainant namely Dharmendra Madanmohan Sharma Dt.25.09.2022 alongwith the statements of the witnesses and the documents filed by the parties on record etc clearly shows that the complainant and the present applicant/accused alongwith the other accused were having good relation wherein the present applicant/accused took the amount of Rs.1,00,000/- from the complainant in the month of January, 2018 but failed to repay the same and promise to sale the flat No.204, 2<sup>nd</sup> Floor, S.R.A. Parth Siddhivinayak Mandir, Pushpa Park, Road No.2, Malad (East), Mumbai for the consideration amount of Rs.43,00,000/- for which paid the total amount of Rs,43,00,000/- through the bank to the present applicant/accused alongwith the other accused but the present applicant/accused alongwith the other accused failed to execute the Sale Deed nor repay the said amount to the complainant whereby the complainant lodged the report in which the police registered the offence and recorded the statements of the witnesses.

3. Obviously, the report, the statements of the witnesses and the documents filed by the parties on record clearly shows that the present applicant/accused alongwith the other accused failed to execute the Sale Deed in favour of the complainant but said flat was not only mortgaged with the bank but also agreed to sale to two to three more persons which itself shows that the present applicant/accused alongwith the other accused were having dishonest intention from very inception of the receiving the amount from the complainant to cheat the complainant. No doubt, the offence is serious and the huge amount and several aspects are involved in the present case whereby thorough and the custodial interrogation of the present applicant/accused is indeed essential otherwise the right to interrogate the present applicant/accused by the investigation Officer would be taken away which would certainly affect the case of the prosecution & ultimately the case of the complainant on merit.

4. However, the facts of the case cited by the learned advocate for the applicant/accused bearing ***Criminal Appeal No. 1285 of 2021 between Mitesh Kumar Sha Vs The State of Karnataka decided on 26.10.2021*** and the facts of the case in hand are entirely different & thus the principles & ratio laid down by Their Hon'ble Lordships do not assist to the case of the applicant/accused with due respect.

5. In such circumstances, I am of the view that this is not the fit case in which the applicant/accused can be released on anticipatory bail u/s 438 of The Cr.P.C & thus I proceed to pass the following order.

**ORDER**

The application is hereby rejected.

**(A.Z.Khan)**

Additional Session Judge,  
Borivali Div, Dindoshi,  
Mumbai.

**Date :- 24.01.2023.**

Dictated on : 24.01.2023.  
Transcribed on : 24.01.2023.  
Checked and Signed on : 24.01.2023.

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

**24.01.2023 at 05.40 P.M.**  
**UPLOAD DATE AND TIME**

**Ashok S. Sugdare**  
**NAME OF STENOGRAPHER**

Name of the Judge (With Court room no.)	<b>SHRI. A. Z. KHAN</b> <b>(C.R. NO.13)</b>
Date of Pronouncement of JUDGMENT/ ORDER	<b>24.01.2023</b>
JUDGMENT/ORDER signed by P.O. on	<b>24.01.2023</b>
JUDGMENT/ORDER uploaded on	<b>24.01.2023</b>