

MHCC020170182022



IN THE SESSIONS COURT FOR GREATER MUMBAI
AT MUMBAI
ANTICIPATORY BAIL APPLICATION NO.2775 OF 2022
(CRIME NO.728 OF 2022, TARDEO POLICE STATION)
CNR No.MHCC02-017018-2022

- | | |
|------------------------------------|-----------------------|
| 1. Jagadeeswarudu Chilliukuri, |] |
| Aged 62 years, Occ. : Business, |] |
| 2. Radha Rani Chilliukuri, |] |
| Aged 58 years, Occ. : Business, |] |
| 3. Indrakumar Chitturi, |] |
| Aged 53 years, Occ. : Business, |] |
| 4. Srinivas Rao, |] |
| Aged 59 years, Occ. : Ex-Employee, |] |
| Having their Office at : 1-54-52, |] |
| MIG-28 and 29, Swethavahana |] |
| Residency, Sector 1, MVP Colony, |] |
| Vishakapatnam – 530 017. |] |
| | ... Applicants |

Vs.

- | | |
|---|-----------------------|
| State of Maharashtra, |] |
| Through Tardeo police station, |] |
| To be served through Public Prosecutor, |] |
| Sessions Court, Mumbai. |] |
| | ... Respondent |

Appearances :-

Ms. Anita Castellino a/w. Mr. Sayed Zia, Ms. Jayshri Rajemahadik,
Mr. Abdullah Dharma i/b. Mr. Mehul Thakkar, Ld. Advs. for applicants.
Mr. J. N. Suryawanshi, Ld. A.P.P. for respondent/State.
Mr. Mayur Sonawane, Ld. Adv. for intervener/complainant.

**CORAM : VISHAL S. GAIKE,
ADDL. SESSIONS JUDGE,
COURT ROOM NO.22.
DATE : 30th January, 2023.**

ORDER

1. This is an application under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail in connection with Crime No.728 of 2022 registered at Tardeo police station for the offence punishable under Sections 406, 420 r/w. 34 of the Indian Penal Code.

2. It is the case of the prosecution that, the complainant Rajiv Jawahar Shah, resident of Tardeo, Mumbai, gave report that he has a firm namely, 'Shital Enterprises' since the year 1990. He is in the business of diamonds and textiles and is trading through the said firm. The said firm also extends credit facilities to other Companies. He has a another firm namely, 'Varun Enterprises' and his son Varun Shah is looking after the business of the said firm. In the year 2018, the Director Jagadeeswarudu Chilliukuri and Srinivas Rao of Haigreeva Infratech Projects Ltd. came to his office which is situated in his house. They asked the complainant to extend credit facility to their Company and in exchange offered bank guarantee to them. They promised to give 20 to 21% yearly interest on the credit facility given by the complainant's firm and further promised to pay the T.D.S. which will thereafter, became due. Therefore, on 24/04/2018, 01/06/2018, 27/07/2018, 31/08/2018 and 25/02/2020, the complainant executed six different agreements on behalf of his firm Shital Enterprises in

favour of the Company of the accused. On 31/08/2018, two separate agreements were executed by Varun Enterprises in favour of the applicants. According to the said agreements, the firm of the complainant and his son transferred an amount of Rs.18,50,00,000/- through R.T.G.S. into the account of Haigreeva Infratech Projects Ltd. and in the accounts of other suppliers, as directed by the applicants. The T.D.S. for the year 2018-2019 and 2019-2020 was paid by the Company of the accused, but for the year 2020-2021, 2021-2022, T.D.S. was not paid by them.

3. The complainant's firm received some amount towards interest from the Company of the accused. He informed the applicants to pay the remaining T.D.S. directly to the State by transferring the same in its firm's account so they can pay the same. At that time, accused assured them to pay the T.D.S. But, thereafter, it was revealed that an amount of Rs.40,36,879/- towards T.D.S. was not paid by Haigreeva Infratech Projects Ltd. When the complainant contacted the applicants about the payment of T.D.S., they refused to pay it. The Income Tax Department of Mumbai had issued letters to the firm of the complainant and his son. In this manner, the applicants have cheated the complainant.

4. The say of the Investigating Officer was called. He has stated that, the accused did not pay an amount of Rs.40,36,879/- to the State and issued a false letter on their letterhead to the complainant's firm thereby making false statement that the said T.D.S. was paid. But, after the complainant received notice from the Income Tax Department on 31/03/2022, he came to know that accused have cheated him by

making false statement. Some amount taken by the applicants on credit from the complainant's firm is due and for its repayment, the applicants issued five cheques of Rs.66,02,009/- and cheated the complainant. Thus, the total amount of Rs.1,06,38,888/- which includes the T.D.S. amount is to be recovered. The applicants were issued notice under Section 41(1)(A) of the Code of Criminal Procedure on 15/11/2022 and were asked to remain present in the police station on 22/11/2022. They issued a letter through their counsel and asked for period of seven days, but did not remain present and co-operate in the investigation. Hence, the application may be rejected.

5. Heard the parties. Perused the record. Learned counsel for the applicants submitted that, the applicants are innocent and have not committed any offence, as alleged. Though five cheques issued by the applicant Nos.1 to 3 in favour of Shital Enterprises and Varun Enterprises were dishonoured, but the complainant has invoked the bank guarantee given by the applicant Nos.1 to 3 and has recovered his entire amount which includes the principle amount as well as accrued interest on it. For the payment of T.D.S., the applicant Nos.1 to 3 have filed an affidavit at Exh.7 and have admitted their liability to pay the T.D.S. amount which their Company is bound to pay. She further pointed that as the financial situation of the Company of the applicant Nos.1 to 3 was in mess, therefore, they were not able to pay the T.D.S. within the stipulated period. But, they have undertaken to pay it within the period of four months from 21/01/2023. She further pointed out that the applicant No.4 was an employee in the Company of applicant Nos.1 to 3 and he has no liability to pay any T.D.S. amount on behalf of the Company of applicant Nos.1 to 3. That the applicants are ready to

co-operate in the investigation and abide any condition which may be imposed upon them in the event of their application being allowed. Hence, the applicants may kindly be granted anticipatory bail.

6. Learned A.P.P. vehemently opposed the application and reiterated the contents of the say of the Investigating Officer.

7. Learned counsel for the intervener/complainant vehemently opposed the application and prayed for its rejection.

8. I have perused the F.I.R. and the documents filed on record and given thoughtful consideration to the submissions made by the parties. It appears that there were financial transactions between the firm of the complainant and his son with the Company of applicant Nos.1 to 3. The principal amount along with accrued interest has been recovered by the complainant from the applicant Nos.1 to 3 by invoking the bank guarantee given by them. The only question remains regarding the payment of T.D.S. which the applicant Nos.1 to 3 are admittedly bound to pay to the concerned department. Through their affidavit at Exh.7, they have admitted their liability to pay the T.D.S. and have undertaken to pay the same to the concerned department within the period of four months from 21/01/2023. The applicant No.1 is 62 years old, the applicant No.2 is 58 years old, the applicant No.3 is 53 years old and the applicant No.4 is 59 years old and all are residents of Vishakhapatnam, Andhra Pradesh State. Therefore, considering the nature of allegations and the facts of the case, the custodial interrogation of the applicants is not necessary. They have no criminal antecedents and there is no possibility that they may flee away from

justice. Hence, I am inclined to allow the present application and proceed to pass the following order :-

ORDER

1. Anticipatory Bail Application No.2775 of 2022 is hereby allowed.

2. In the event of arrest of applicant Nos.1. Jagadeeswarudu Chilliukuri, 2. Radha Rani Chilliukuri, 3. Indrakumar Chitturi and 4. Srinivas Rao in connection with C.R. No.728 of 2022 under Sections 406, 420 r/w. 34 of the Indian Penal Code registered with Tardeo police station, they shall be released on executing their P.R. bond of Rs.25,000/- each with one surety each in the like amount, and on following conditions :-

(a) They shall not tamper with the prosecution witnesses and evidence ;

(b) They shall furnish their detail address, mobile/contact number, address proof, identity proof at the time of furnishing bail ;

(c) In case of change of their residence or mobile/contact number, they shall inform it to the Court and Investigating Officer ;

(d) They are directed to remain present before the Investigating Officer on 12/02/2023 between 11.00 a.m. to 4.00 p.m. for the purpose of investigation till filing of the charge-sheet ;

(e) They shall attend the Court regularly, if any charge-sheet is filed against them ;

(f) They shall co-operate with the Investigating Officer ;

(g) They shall not leave the jurisdiction of this Court without the permission of concerned Metropolitan Magistrate and if the case is committed to this Court, without the permission of this Court ;

(h) They shall not give any threat or pressurise the complainant and witnesses in any manner which may dissuade them from disclosing any fact of the case to the police officer or to the Court.

3. Anticipatory Bail Application is disposed off accordingly.

(VISHAL SADASHIVRAO GAIKE)
ADDL. SESSIONS JUDGE,
CITY CIVIL & SESSIONS COURT,
GREATER MUMBAI.

Date : 30/01/2023.

Dictated on : 30/01/2023.
Transcribed on : 01/02/2023.
Signed on :

"CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER."	
UPLOAD DATE AND TIME 02/02/2023 at 12.40 p.m.	NAME OF STENOGRAPHER Bahushruta Y. Jambhale
Name of the Judge (With Court Room No.)	H.H.J. Shri Vishal S. Gaikar (Court Room No.22)
Date of Pronouncement of JUDGMENT/ORDER	30/01/2023.
JUDGMENT/ORDER signed by P.O. on	02/02/2023.
JUDGMENT/ORDER uploaded on	02/02/2023.