

A.B.A. 2777/2022.

MHCC020170222022



IN THE COURT OF ADDITIONAL SESSIONS JUDGE MUMBAI,

AT GR. BOMBAY

ANTICIPATORY BAIL APPLICATION NO. 2777 OF 2022.

IN

C.R. NO. 313 OF 2022

Masumi Rajesh Mewawala

... Applicant

Versus

The State of Maharashtra

Vide its C.R.No.313/2022 Registered at DCB

CID, Unit-6, Mumbai.

(Ori. C.R.No.713/2022 registered at Deonar  
Police Station, Mumbai).

... Respondent

Appearances :-

Ld. Adv. Ms. Shubhada Khot a/w Adv. Anthony Nadar  
for the applicant.

Ld. APP Mr. Ramesh Siroya for the State/Respondent.

**CORAM : H.H. THE ADDITIONAL SESSIONS JUDGE  
DR. A. A. JOGLEKAR (C.R.NO.37)  
(Incharge Court of C.R.No. 24)**

**DATED : 29<sup>TH</sup> DECEMBER, 2022.**

**ORDER**

By this application the applicant **Masumi Rajesh Mewawala** has sought for grant of pre-arrest bail under Section 438 of the Code of Criminal Procedure, (In short, "Cr.P.C"), as he apprehends arrest C.R.No.313/2022 Registered at DCB CID, Unit-6, Mumbai (Ori. C.R.No.713/2022 registered at Deonar Police Station, Mumbai), for the offences punishable under Sections 406, 420, 506(2) and 34 of the Indian Penal Code, (hereinafter referred to as, "IPC").

2. It is the case of the prosecution that, in November, 2016, the informant was introduced to the accused by a lady known to him namely Priti Thakar, wherein she apprised the informant that the accused is a fashion designer and has her own Garment Business under the name and style as M/s. Pink Peacock Couture. Apart from the same, she also stated that, the father of accused was also engaged into the business of the dry fruits and had his business under the name of Fountan Dry Fruit Store Private Limited. Thereafter, the informant and the accused were well in touch with each other and the informant used to visit accused's shop at Lower Parel. Accused also had introduced her parents with the informant. Thereafter, in January, 2017, accused and her parents met the informant, wherein accused's father told the informant that, accused was suffering from a Malignant Tumor and it requires lakhs of rupees for her treatment at America and that, he was in requirement of Rs.30 to 40 lakhs. Upon which initially the informant was not willing to tender such money,

but later on he was emotionally convinced and accordingly had tendered such sum by availing loan.

3. Thereafter, it was found that, the installments of the loan availed by the informant were not duly paid by the accused and her parents as promised by them. Therefore, the informant was asked to become partner in their four companies owned by the accused and her parents and the informant was also apprised that, he would be paid Rs.1,00,000/- each month. Further, in the meantime again the informant was asked for such money for the treatment of the accused and again such amount was tendered by the informant, but thereafter, the accused and her parents again failed to return such sum and thereafter, threatened the informant of false implications. When the informant came to know that, the accused had defrauded several such other individuals, he came a head and lodged such complaint against the accused. Accordingly, the offence was registered by the respondent agency under the Sections *ibid*.

4. Ld. Advocate for applicant states that, the applicant is falsely implicated and has no role in the present crime. It is stated that, considering the prosecutions case in itself it can be observed that the informant himself had out of his own bank account transferred advances as investments in various firms in which he alongwith the applicant were director. Further, the entire contents of the FIR propel for a civil transaction. Also, that the complainant throughout was attending mediation meeting with the applicant, post registration of the CR with Mulund Police Station and with DCB CID, Unit-1 and also with Byculla Police Station with the informant and

when the mediation failed the informant vindictively got registered the present crime. It is further stated that, the story with regard to the Malignant Tumor is falsely raised by the informant as the said medical ailment with regard to the applicant was diagnosed in the year 2021 and not before that. Hence, the Ld. Advocate for applicant states that, no any ingredients with regard to sections invoked against the applicant could be considered in view of the role attributed to the applicant in the FIR. Hence, Ld. Advocate for applicant prayed for enlargement of the applicant on pre-arrest bail.

5. Per contra the prosecution has filed their reply vide Exh.2 and *inter alia* have resisted the application on various grounds. It is categorically stated that, the applicant in connivance with her parents apprised the informant of such medical ailment and upon gaining such confidence also convinced the informant to avail such loan and have accordingly cheated the informant. Further, the applicant is duly served with the notice under Section 41(a) of Cr.P.C., but till date she has not co-operated with the agency. So also, the prosecution has brought on record such prior antecedents to the discredit of the applicant. Prosecution further apprehends abscondance, tampering of evidence and threatening to the prosecution witnesses at the hands of the applicant. Hence, the Ld. Prosecutor prayed for rejection of application.

6. Ld. Advocate for intervener has filed his reply and *inter alia* have resisted the application on various grounds. It is categorically stated that, the applicant is a history-sheeter and habitual offender.

He categorically has stated that, the applicant has a pistol in her possession and the applicant alongwith her mother has been threatening to the informant since, he has been confronting them. Thus, the Ld. Advocate for intervener further argued in congruence with that of the Ld. Prosecutor and has prayed for rejection of application.

7. Heard Ld. Advocate for applicant, Ld. APP for the State and Ld. Advocate for Intervener. Perused the application and reply filed by the parties.
8. It evinces to myself that, the applicant herein has admittedly not denied for such sum to be taken from the informant. On the contrary the applicant in order to justify such receipt of sum has stated that, it was the informant, who had invested such sum in their company, wherein either of them was partners. But in order to substantiate the said contention applicant has not tendered a single document with regard to such form of investment and the other ancillary benefits against such investment if any. Therefore, in the absence of any such documents the factum of availing such amount would naturally require such custodial interrogation of the applicant. Ld. Advocate for intervener has stated that, the applicant also possessed firearm and the same is also stated by the prosecution in their reply. In this regard, considering the quantum of amount under the crime and that there being any cogent explanation in *prima-facie* in my considerate view custodial interrogation is therefore required.

9. While considering prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused. Frivolity in the prosecution always be considered and it is only the element of genuineness that shall have to be considered in the matter of bail.

10. Considering the fulcrum of arguments, it further evinces that, there are criminal antecedents to the discredit of the applicant. Ld. Advocate for applicant states that, in majority of such offences the applicant is enlarged on bail. Although, the applicant is enlarged on bail the conduct and modus operandi of the applicant cannot be ignored thereby, more especially when the antecedents are of similar nature. Therefore, mere such enlargement of the applicant on bail in the said offences qua criminal antecedents will not be a reason for enlarging the applicant in the present crime. At this juncture it is evident that, the investigation is at a nascent stage and under progress and therefore, granting such relief of enlargement on pre-arrest bail would naturally derail the momentum of investigation. Although, the documents pertaining to the medical ailment are filed on record. The medical certificate dated 30.07.2022 propels for dizziness, headache and omitting and that the status thereafter is not brought on record. Thus, in the absence of any such document propelling medical emergency even on the said aspect the applicant cannot enjoy such benefit of pre-arrest bail upon medical grounds. Hence, in my considerate view, this is not a fit case for grant of pre-

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arrest bail. In the backdrop of the aforesaid facts, I hold that, the application deserves no consideration. Hence, order infra :-

**ORDER**

Anticipatory Bail Application No. 2777/2022 stands rejected and disposed of accordingly.



**Date : 29.12.2022**

**Dictated on : 29.12.2022**

**Transcribed on : 30.12.2022**

**HHJ signed on : 02.01.2023**

**(DR. A. A. JOGLEKAR)**  
**Additional Sessions Judge**  
**City Civil & Sessions Court,**  
**Gr. Bombay (C.R.37)**  
**(Incharge Court of C.R.No. 24)**

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

<b>Upload Date</b>	<b>Upload Time</b>	<b>Name of Stenographer</b>
<b>02.01.2023</b>	<b>04.56 p.m.</b>	<b>Mahendrasing D. Patil (Stenographer Grade-I)</b>

<b>Name of the Judge (With Court Room No.)</b>	<b>HHJ DR. A. A. JOGLEKAR (Court Room No. 37)</b>
<b>Date of Pronouncement of JUDGMENT/ORDER</b>	<b>29.12.2022</b>
<b>JUDGMENT/ORDER signed by P.O. on</b>	<b>02.01.2023</b>
<b>JUDGMENT/ORDER uploaded on</b>	<b>02.01.2023</b>