

MHCC050061312022



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

ANTICIPATORY BAIL APPLICATION NO.1840 OF 2022

IN

(Crime No.271 of 2019 of Vanrai Police Station)

1. Mrs. Pushpa Hirachand Shah,

Aged : 57 years, Occ : Business,
Add: 203, Tina Tower, Venketesh Park
Phatak Road, Opp. MTNL office,
Bhayander(W), Dist. Thane-401101.

2. Mr. Ankush Hirachand Shah,

Aged : 30 years, Occ : Business,
Add: 203, Tina Tower, Venketesh Park
Phatak Road, Opp. MTNL office,
Bhayander(W), Dist. Thane-401101.

..Applicants.

Vs

The State of Maharashtra

(Vanrai Police Station
Vide C.R.No.271 of 2019)

..Respondent

Ld. Advocate Shri. Sunil Kumar Tiwari for the applicants.

Ld. APP Smt. Poornima Chauhan, for the State.

**CORAM : H.H.J.ADDITIONAL SESSIONS JUDGE,
SHRI A.R. QURESHI,
COURT ROOM NO.06.**

DATE : 25th NOVEMBER, 2022

ORAL ORDER

Applicants namely (no.1) **Mrs. Pushpa Hirachand Shah & (no.2) Mr. Ankush Hirachand Shah**, have filed this application u/s.438 of Cr.P.C. for seeking direction to release them on anticipatory bail apprehending arrest in connection with crime no.271/2019 for the offences punishable under sections 379, 420, 409, 120(B) r/w.34 of I.P.C. registered with Vanrai Police Station.

2. Read application, perused the copy of report of I.O. Exh.2 and which is say adopted by the prosecution as say/reply to the prosecution.

3. Heard argument of learned counsel Shri.Sunil Kumar Tiwari for the applicants and learned APP Smt. Poornima Chauhan for the respondent/state at length. Further heard I.O. Mr. API Shri. Vichare Police Station of Vanrai at some length, he also strongly apposed this anticipatory bail application.

4. Learned counsel for the applicants submits that this is the crime of the year 2019 of the offences U/sec. 379, 420, 409, 120(B) r/w.34 of IPC. The FIR is not against the applicants. No role of the applicants in this crime. However, police authority is calling the applicants at police station by issuing notice U/sec. 41 of Cr.P.C. on 27/11/2019, the original informant received information from the companies office No. 701/702, Jaicoch Junction, Western Highway, Goregaon (East), Mumbai. The cheques sent from their branch to the customers did not have reached and customers and Mr. Kishor Panchal received information that some of the person had stolen the cheques. The police authority have recovered 10 cheques from the accused as named in FIR not against the applicants.

5. However, according to the applicants, they are the businessman

having reputation in society, they are falsely implicated in this crime . Hence, the learned advocate for the applicants submitted only to release the applicants on anticipatory bail in the event of arrest.

6. Ld APP Smt. Poornima Chauhan has strongly opposed the anticipatory bail application and submitted that I.O. has also strongly apposed in view of the five grounds as per in the report. She further submits that the applicants will not co-operate and assist the IO in investigation and custodial interrogation of the applicant is required for detailed investigation. She further submits that till today in all 232 cheques of the amount of Rs. 80,00,000/- have been stolen by the culprit . In that regards, the investigation is going on. Hence, she submitted to reject this anticipatory bail application.

7. During the course of arguments API Shri Vichare submitted and pointed out that one of the accused Hirachand Hasmukhlal Shah is released by this court in ABA No. 1767/2022 dated 09/11/2022 and I.O. Submits that this applicants/accused is not co-operating the I.O. in investigation even though there is direction to attend the police station as and when called by the I.O. Hence, he submits that accused did not co-operate and assist the I.O. in investigation as and when required. Hence, he submits that this is a serious case without custodial interrogation, investigation is not at all possible. Hence, he strongly opposed this anticipatory bail application.

8. I have heard both the sides at length. Particularly, I.O. in person have pointed out today that in earlier anticipatory bail application, applicant-Hirachand Hasmukhlal Shah did not co-operating and not approached the police station as and when called by the I.O. & as and when required. In such circumstances, considering the nature of the offences, allegations, I am not satisfied to allow this application to release the applicants on anticipatory bail

in the event of arrest, as I found that applicants will not co-operate and assist to the I.O. in future as one of the instance had taken place as pointed out by API Shri. Vichare.

9. However, Hon'ble High Court in the case of **Jai Prakash Singh Vs. State of Bihar A.I.R. 2012 S.C. 1676** has observed that anticipatory bail being an extraordinary privilege should be granted only in exceptional case. However, the present case at hand does not fall under the category of extraordinary privilege. As such application deserves to be rejected.

10. In the circumstances, application deserves to be rejected and applicants/accused do not deserves to be released on anticipatory bail. Hence, I proceed to pass following order.

ORDER

1. Anticipatory Bail Application No.1840 of 2022 u/sec.438 of Cr.P.C. as filed by applicants (No.1) **Mrs. Pushpa Hirachand Shah & (No.2) Mr. Ankush Hirachand Shah**, in Crime no.271 of 2019 of the offences u/s.379,420,409,120(b) r/w 34 of Indian Penal Code, registered with Vanrai Police station, Mumbai is hereby rejected and disposed of accordingly.
2. Order pronounced in Open Court.
3. Proceeding closed.

Date 25/11/2022

(A. R. Qureshi)
Additional Sessions Judge,
Borivali Div.,Dindoshi, Mumbai

Dictated on : 25/11/2022
Transcribed on : 28/11/2022
Corrected on : 28/11/2022
Signed on : 28/11/2022

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

Date : 29/11/2022

Time : 11.13 A.M.

UPLOAD DATE AND TIME

Ms.S.S.Chudji

(Stenographer Grade-I)

NAME OF STENOGRAPHER

Name of the Judge (with Court room no.)	HHJ A. R. Qureshi (C.R.No.6)
Date of Pronouncement of JUDGMENT/ORDER	25/11/2022
JUDGMENT/ORDER signed by P.O. on	28/11/2022
JUDGMENT/ORDER uploaded on	29/11/2022