

IN THE COURT OF SESSIONS FOR GR. BOMBAY AT MUMBAI

ANTICIPATORY BAIL APPLICATION NO.2763 OF 2022

CNR NO.MHCC02-016937-2022

Rafiulla Mohammad Khalil Khan
Age :52 years, Occ. : Tailor.
R/o: New Jankalyan Welfare
Society, Indira Nagar-1, Mandala
Ghatkopar Link Road, Mankhurd,
Mumbai-400 043.

... Applicant/Accused

Versus

State of Maharashtra
(At the instance of Mankhurd
Police Station.)

... Respondent.

Ld. Advocate Ms. Anita Marbhal for applicant/accused.
Ld.APP Mr. Ramesh Siroya for the State.

**CORAM : HIS HONOUR THE ADDL.SESIONS JUDGE
SHRI.M.S.KULKARNI (C.R.NO.56)
DATED : 10th January, 2023.**

**(DICTATED AND PRONOUNCED IN OPEN COURT)
ORAL ORDER**

1. This is pre-arrest bail application in respect of C.R.No.902/2022 registered with Mankhurd Police Station for the offences punishable under Section 380 of the of the I. P. Code.

2. The FIR was lodged by one Ravishankar Sunilkumar Jaiswal about theft of his mobile, around 00.30 hours of 10.11.2022 from his house. Accordingly FIR was registered under section 380 of IPC against unknown person.

: 2 :

3. During the case of the investigation as per the reply from the IO, he found that the abscond accused Rizwan Rafiullah Khah who is son of the applicant/accused using Google Pay app available in mobile handset of the first informant, purchased electronic gazzate amounting to Rs.97,0000/- from flipcard. During the case of the investigation it was further revealed that Mr. Rizwan used 7 mobile handsets for that purpose. Even he got transferred Rs.30000/- for the account of the first informant. During investigation it is found that Mr. Rizwan Rafiullah has been to his native place in Uttar Pradesh but he he has kept mobile handsets and electronic articles in the house at Mumbai, which is the house of the applicant/accused. Investigating officer has found when he searched said the house some of the electronic gazzate purchased from flip cart by Mr. Rizwan. Even the mobile handset of the first informant was also found in the house and accordingly the IO has seized all these articles in the course of investigation.

4. The applicant/accused has asked for bail on the grounds that;

- a. since last one month IO has been coming in his house asking about his son Rizwan.
- c. The IO has threatened that as stolen mobile handset has been found in the house of the applicant/accused he would be involved in the crime.

5. IO has objected bail on the grounds as;

- a. Custodial interrogation of the applicant/accused is required to find out the truth.
- b. If the applicant/accused is granted bail, he will pressurize the first informant and prosecution witnesses.

: 3 :

c. First informant has been cheated by purchasing electronic gadgets through his Googal pay account. Further 30,000 was got transferred by Mr. Rizwan.

6. I heard Learned advocate Ms.Anita Marbhal for the applicant/accused and Learned APP Mr. Siroya for the State.

7. Admittedly the FIR was against the unknown person. The investigation discloses that son of the applicant/accused namely Rizwan had stolen the mobile handset of the first informant and using the said handset, he has purchased electronic gadgets. He has allegedly transferred Rs.30,000/- from the account of the first informant to his account. Only fact revealed during investigation is that the mobile handset of the first informant and electronic gadgets were found in his house, when the police team conducted raid at the house of the applicant/accused to arrest Rizwan. As per say of the IO he has seized all these articles. So there is nothing remained so far as the applicant/accused is concerned to interrogate by taking him in the custody. So the applicant accused is entitled for anticipatory bail with following order;

ORDER

1. Anticipatory Bail Application No.2763 of 2022 is allowed.
2. In the event of arrest of the applicant **Rafiulla Mohammad Khalil Khan** in Crime No. 902/22 registered with Mankhurd Police Station for the offences punishable under Section 380 of I.P.C., he shall be released on his executing personal recognizance for an amount of Rs.15,000/- with one or two sureties in the like amount subject to the following conditions;

: 4 :

a) The applicant/accused is directed to attend Mankhurd police station on every Monday and Thursday in between 10.00 a.m. to 11.00 a.m. till filing of the charge-sheet.

b) He shall co-operate Investigating officer.

c) He shall not tamper with the evidence or influence the witnesses.



(M.S.Kulkarni)
Addl.Sessions Judge,
City Civil and Sessions Court,
For Greater Bombay

Date : 10.01.2023.

Dictated on :10.01.2023.
Typed on : 11.01.2023.
draft checked on : 12.01.2023
Signed on : 13.01.2023

: 5 :

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

UPLOAD DATE AND TIME : 16.01.2023 at 17.10 p.m.
NAME OF STENOGRAPHER : Mrs. Prajakta K. More

NAME OF THE JUDGE	HHJ SHRI. M. S. Kulkarni (C.R.No.56)
Date of Pronouncement of Order	10.01.2023
Order signed by the P.O. On	13.01.2023
Order uploaded on	16.01.2023