

MHCC020172632022



IN THE SESSIONS COURT FOR GREATER MUMBAI
AT MUMBAI
ANTICIPATORY BAIL APPLICATION NO.2833 OF 2022
(CRIME NO.1235 OF 2022, WORLI POLICE STATION)

CNR No.MHCC02-017263-2022

1. Rahul Jitendra Kamble,]
Aged : 29 years, Occ. : Service,]

2. Ragini Rahul Kamble @]
Ragini Ajit Bidaye,]
(Wife of Rahul Jitendra Kamble)]
Aged : 22 years, Occ. : Service,]

Both applicants are having permanent]
residence at : 104/05/14, Jijamata]
Nagar, Subhash Nagar, Dr. E.Moses Road,]
Behind Saibaba Mandir, Worli Naka,]
Mumbai - 400 018, **and**]
Presently Residing at : 08, Dr. E. Moses]
Road, Surya Darshan Bldg.,]
Jijamata Nagar, Worli, Mumbai -400 018.]

**... Applicants/
Accused Nos.1 & 2**

Vs.

The State of Maharashtra,]
(At the instance of Worli police station).]

... Respondent

Appearances :-

Mr. Akash Shah i/b. Mr. Rahul Ubale, Ld. Adv. for applicants.
Mr. J. N. Suryawanshi, Ld. A.P.P. for respondent/State.

**CORAM : VISHAL S. GAIKE,
ADDL. SESSIONS JUDGE,
COURT ROOM NO.22.**

DATE : 7th 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.1235 of 2022 registered at Worli police station for the offence punishable under Sections 408, 420 r/w. 34 of the Indian Penal Code.

2. It is the case of prosecution that, the complainant Nitin Prakash Dhumal owns a Gym in Worli, Mumbai. The applicants are husband and wife respectively and were working in his Gym. The applicant No.2 was Receptionist-cum-Sales person and her husband i.e. the applicant No.1 along with two other accused was a Gym Trainer. They allegedly, without authority, accepted Gym fees from the clients of the said Gym directly into their bank accounts and thus, cheated the complainant.

3. The say of the Investigating Officer was called. He has stated that, the bank statements of the applicants were examined. The applicant No.1 has unauthorisedly accepted money from the Gym clients directly into his bank account through 168 transactions and thus, misappropriated an amount of Rs.4,00,720/-. The applicant No.2 has accepted an amount of Rs.1,31,099/- from the Gym clients directly into her account through 49 bank transactions. The said amount is to be

recovered from the applicants. Further investigation is to be made regarding any other amount which may have been accepted unauthorisedly by the applicants from the said Gym clients. Investigation is to be made regarding other bank accounts, if any, belonging to the applicants. There is a possibility that some other persons may have helped the applicants for commission of the said offence. Hence, the application may be rejected.

4. Heard the parties. Learned counsel for the applicants submitted that, the applicants are innocent and have not committed any offence, as alleged. The applicant No.1 is a Gym Trainer and the complainant had authorised the applicant No.1 and other two Gym Trainers to directly receive their training fees from the Gym clients into their bank accounts. They have not cheated or misappropriated the complainant in any manner. None of the offences alleged against the applicants are punishable with imprisonment of more than seven years. 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, they may kindly be granted anticipatory bail.

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

6. I have carefully considered the submissions made by the parties and allegations made in the F.I.R. None of the offences alleged against the applicants are punishable with imprisonment of more than seven years. No criminal antecedents are alleged against them and

there appears no possibility that they may flee away from justice. The applicant No.2 is a woman and is reportedly having a baby, who is ten months old. Therefore, considering the nature of accusations, there is no necessity of custodial interrogation of the applicants. Consequently, I am inclined to allow the application and proceed to pass the following order :-

ORDER

1. Anticipatory Bail Application No.2833 of 2022 is allowed.
2. In the event of arrest of applicant Nos.1. Rahul Jitendra Kamble and 2. Ragini Rahul Kamble @ Ragini Ajit Bidaye in connection with C.R. No.1235 of 2022 under Sections 408, 420 r/w. 34 of the Indian Penal Code registered with Worli police station, they shall be released on executing their P.R. bond of Rs.15,000/- 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) The applicant No.1 shall attend the concerned police station on every Monday and Friday between 1.00 p.m. to 5.00 p.m. for the purpose of investigation till filing of the charge-sheet ;
 - (e) The applicant No.2 shall attend the concerned police station as and when called by the Investigating Officer by written notice for the purpose of investigation till filing of the charge-sheet ;
 - (f) They shall attend the Court regularly, if any charge-sheet is filed against them ;
 - (g) They shall co-operate with the Investigating Officer ;
 - (h) 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 ;

(i) 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 : 07/01/2023.

Dictated on : 10/01/2023.
Transcribed on : 13/01/2023.
Signed on :

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| "CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER." | |
| UPLOAD DATE AND TIME 16/01/2023 at 3.20 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 | 07/01/2023. |
| JUDGMENT/ORDER signed by PO. on | 16/01/2023. |
| JUDGMENT/ORDER uploaded on | 16/01/2023. |