

CNR NO.MHCC02-017256-2022

IN THE COURT OF SESSIONS FOR GREATER BOMBAY
ANTICIPATORY BAIL APPLICATION No.2828 OF 2022

Rajnish Sharma
presently residing at
D-27, Roop Vihar,
Near Vivek Vihar Metro Station,
New Sanganer Road, Jaipur,
Rajasthan 302019

... Applicant

- Versus -

The State of Maharashtra
(Through Park Site Police station,
vide Cr. No.800/2022)

... Respondent

Appearance :-

Advocate Durgesh D. Rege for applicant.
A.P.P. Soshte for State / Respondent.

**CORAM : SHRI. S.D. KULKARNI,
ADDITIONAL SESSIONS JUDGE,
COURT ROOM No. 30.
(INCHARGE OF CR.No.27)
DATED : 27/12/2022.**

ORDER

. This is an application filed u/sec.438 of Code of Criminal Procedure for grant of anticipatory bail in connection with CR.No.800/2022 registered in Park Site Police Station for the offence punishable u/sec. 420 and 34 of IPC.

2. It is alleged by the applicant / accused that the informant company is in a business of providing pre-loaded cards to other private companies. The private companies on getting pre-loaded cards facilities entitled to distribute the said card to their employees and also related persons. The person who get the facility to pre-loaded cards can purchased goods or services using such cards. The allegation against the applicant / accused that all recharge companies paid Rs.22,67,68,595/- in the month of July for primary card balance. But while entering secondary card details on en-cash portal the amount mentioned as and falsely paid pretending to have balance of Rs.24,05,88,535/- so the informant's company paid access of Rs.1,14,50,500/- After realizing the above fact both companies have their joint meeting and some amount was paid by the applicant / accused company. It is further alleged by the applicant that any difference in amount payable would be subject to further reconciliation between the parties and confirmation of basis data. So it can not be said that accused has intention to deceive the informant's company since entering into the contract. Hence applicant / accused paid for protection from arrest by allowing anticipatory bail application.

3. Prosecution opposed the application by filing reply vide Exh.2 and 3. The contention of the prosecution that the applicant / accused company and all recharge companies within few seconds used the cards therefore, server of the informant's company got over loaded so it shows the *mala fide* intention of the accused. The huge amount involved in this case therefore, custodial interrogation of the accused is necessary. The notice was issued to the accused as per section 41(a)(1) but accused never appeared so if accused released on anticipatory bail there is a difficulty in seizure of cheating amount and it will affect on

the investigation of the crime. Hence, for prosecution prayed for rejection of the application.

4. Perused application, say filed by the prosecution. Perused documents filed by all the parties on record. Heard advocate for the applicant, APP for the State and Investigating Officer.

5. On going through the application and say it reveals that the informant company is used to provide the facility of pre-loaded cards to the companies. The companies who getting pre-loaded cards facilities can make any number of secondary cards as per their requirement. The amount to be deposited on each primary cards will be determined by the informant's company. The applicant / accused signed an agreement with informant company and started business on 04.06.2022. In July 2022 informant's company noticed that the primary card balance of applicants company in July is 22,67,68,595/- but on a secondary card it was pretended balance of Rs.24,05,88,535. On going through the record it reveals that the applicants company had paid amount of Rs.3,16,00,000/-. The contention of the applicant that the informant's company demanded payment of Rs.1,39,84,757/- without any credible data.

6. The accused are prosecuted for the commission of offence punishable u/sec420 r/w 34 of the Indian Penal Code. It is a matter of record that the transaction in between the companies on the basis of agreement took place on 13.02.2022. When the informant company noticed that the applicant / accused company and other companies have en-cash more amount than they have deposited in a primary card. The documents also shows that getting the above knowledge head of

both the companies have a phone call and discussion and thereafter there was a settlement in between the parties and amount of Rs.3,16,00,000/- paid by the applicant's company to informant's company. So the dispute in between the parties on the payment of Rs.1,39,00,000/- according to the informant's company. The applicant / accused company is payable. But applicant / accused contention that the said amount should have confirmation on the basis of data. So it shows that the applicant / accused is not intending to cheat or defraud the informant's company.

7. The transaction in between the parties purely of civil nature and there is no question of any recovery. Matter can be investigated without arresting the accused more particularly all transactions is on a portal, and it is a on-line transaction. The crime is based on the documentary evidence therefore, in my opinion accused is entitled for the protection from arrest, but at the same time investigation will not suffer. Therefore, applicant / accused can be directed to give his attendance to the concern police station. Considering this, I pass the following order :

ORDER

1. Anticipatory Bail Application No.2828 of 2022 is allowed.
2. Applicant / accused Rajnish Sharma is ordered to be released on executing on P.B. Rs.50,000/- with one or two sureties of like amount in the event of arrest in Crime Number 800/2022 registered at Park Site Police Station under Section 420 and 34 of The Indian Penal Code :

- b. that the applicant / accused shall not, directly; or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the accusation against him so as to dissuade him from disclosing such facts to the Court or to any

police officer.

c. that the applicant shall not leave India without the previous permission of the Court.

3. The applicant / accused shall attend the said police station between 09:00 am. to 04:00 p.m. on every Saturday till further order.

4. Applicant / Accused not to tamper with the prosecution witnesses and evidence in any manner.

5. Provisional cash bail allowed for 4 weeks from today.

6. Anticipatory Bail Application. No.2828 of 2022 is disposed off accordingly.



Date : 27/12/2022.

(**S.D. KULKARNI**)
Additional Sessions Judge,
Gr. Mumbai.

Online Dictated on : 27.12.2022
Signed by HHJ on : 27.12.2022

“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED ORDER.”		
30/12/2022	11.00 A.M	J.S. Chavan
UPLOAD DATE	TIME	NAME OF STENOGRAPHER

Name of the Judge (With Court Room No.)	H. H. Additional Sessions Judge Shri. S.D. Kulkarni, Court Room No. 30. (Incharge of CR.NO.27)
Date of Pronouncement of ORDER	27/12/2022
ORDER signed by P.O. on	27/12/2022
ORDER uploaded on	30/12/2022