

MHCC050065342022



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

ANTICIPATORY BAIL APPLICATION NO. 1953 OF 2022

IN

(C.R. No. 1144 of 2022 of Andheri Police Station, Mumbai)

Mr. Allan Methew Gonsalves,
Age : 52 yrs., Occupation : Business,
Indian Inhabitant of Mumbai,
R/o : Alsafa Bakery, R-1, Sunny House,
Chakala Village, Andheri E.
Mumbai 400 099

..Applicant

Vs

**1) The State of Maharashtra
2) Sr. Inspector of Police,
(through Andheri Police Station)**

..Respondents

Ld. Adv. Bhagwan Mishra, for the applicant.
Ld. APP P.K. Mahajan, for the State.
Ld. Adv. Rahul Pandey, for the intervenor.

**CORAM : H.H. THE ADDITIONAL SESSIONS JUDGE
R.M. MISHRA
(C.R.NO.4)**

DATE : 26th December, 2022

ORAL ORDER

This is an application for grant of anticipatory bail under section 438 of Cr.P.C., in connection with C.R. No. 1144 of 2022, registered with Andheri Police Station for the offences punishable under sections 354, 354-A and 506 of the Indian Penal Code.

2 Perused application and say. Heard both sides.

3 On 05/12/2022 at the instance of informant/victim aforesaid offence came to be registered.

The informant resides in Tarun Bharat Society along with her husband, son and daughter-in-law. The applicant is maternal nephew of the informant. On 20/11/2022 the informant's friend gave an information to her on phone-call that the applicant told him that the Secretary of Tarun Bharat Society has sold out the open plot situated near the society to the informant of which complaint is also filed with the Commissioner. Therefore, on 03/12/2022 when the informant went towards the Secretary of the society along with her friend and with one Prakash Patel for enquiry about the aforesaid information. At that time, the secretary made a phone call to the applicant. However, the applicant started uttering to the friend of the informant such as, “ *madarchod, Randi, Chhinal* ” by giving criminal intimidation. When the informant told the applicant that phone is running on speaker, the applicant told her “ *E S..... teri toh Ma chuda dunga, madarchod, Randi, Chhinal.* ” Thereafter, when the informant came near the plot No. 12 along with her friend, the applicant came there and again started abusing her.

When the informant asked him not to abuse, the applicant pushed her by touching on her chest. When the informant's friend tried to intervene, the applicant also pushed her by touching her chest and uttered abuses to both of them. Accordingly, the report came to be lodged in the police station.

4 By this application, the applicant has contended that he is having permanent place of residence at Andheri. He contended that he is not involved in any such offence. The police are trying to implicate him in a false case to harass him and to extract money. No any such incident took place as alleged. The applicant has not committed any such offence. The applicant is ready to co-operate the investigation agency. He is also ready to abide the conditions imposed by the court. The applicant, therefore, prayed for his release on anticipatory bail.

5 Application is resisted by the prosecution vide say Exh. 05 mainly on the ground that the offence is serious one. If the applicant is granted anticipatory bail, he will not co-operate in investigation. It is thus, contended that the application is liable to be rejected.

6 I have considered the submissions of both sides. In spite of granting directions the prosecution failed to produce case diary. Therefore, on the basis of material available on record I have decided this application. So far as the incident dtd. 03/12/2022 is concerned, the applicant has also filed a copy of NCR (Exh. B) to show that the aforesaid FIR came to be lodged by way of counter blast. Having regard

to the nature of the allegations, it reveals that some quarrel had taken place between the parties on that day. The informant has acted mainly on the alleged incident which took place near the gate of the plot No. 12. As per the allegations, the applicant had pushed the informant and her friend by touching their chest. Having regard to the entire episode which took place prior to this incident, in my view, nothing will be served by keeping the applicant behind the bars. Nothing is brought on record by the prosecution to show earlier criminal antecedent of the applicant. Both parties are related to each other. Therefore, considering these circumstances, if certain conditions are imposed while granting anticipatory bail to the applicant, in my view, purpose will be served. In this view of the matter, following order is passed :

ORDER

- 1) Application under section 438 of the Code of Criminal Procedure for the grant of anticipatory bail is allowed.
- 2) In the event of arrest of the applicant **Allan Methew Gonsalves**, in connection with C. R. No. 1144 of 2022, registered with Andheri Police Station for the offences punishable under sections 354, 354-A and 506 of the Indian Penal Code, he be released on bail, on his executing PR Bond of Rs. 15,000/- (Rupees Fifteen Thousand Only), with one solvent surety in the like amount, on the following conditions-
 - a) Applicant shall remain present in the police station as and when called upon by the Investigating Officer and shall cooperate the Investigation agency till the investigation is completed.

b) The applicant shall not tamper with the prosecution evidence nor shall attempt to allure or pressurize the complainant and her friend in any manner.

3) Concerned Police Station be informed accordingly.

4) Anticipatory Bail Application No. 1953 of 2022 is hereby disposed of accordingly.

sd/-

(R.M. Mishra)

Dt. 26/12/2022

Additional Sessions Judge,
Borivali Div., Dindoshi, Mumbai

Dictated on : 26/12/2022
Transcribed on : 26/12/2022
Checked on : 26/12/2022
Signed on : 26/12/2022

CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.”	
27/12/2022 at 4.12 p.m. UPLOAD DATE AND TIME	Mrs. S.B. Vichare NAME OF STENOGRAPHER
Name of Judge (with Court room no.)	HHJ R.M. Mishra, City Civil & Sessions Court, Borivali Div., Dindoshi, Mumbai (C.R.No. 04)
Date of Pronouncement of JUDGEMENT/ORDER	26/12/2022
JUDGEMENT/ORDER signed by P.O. on	26/12/2022
JUDGEMENT/ORDER uploaded on	27/12/2022

