

MHCC050064192022



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

ANTICIPATORY BAIL APPLICATION NO.1926 OF 2022
IN
C.R.NO.905 OF 2022

1.Abhishek Prashar son of Pushkar Prashar,
Aged : 37 years, Occu.: Agent,
Residing at : Room no.15, Meghdoot Society,
Korge Nagar, J.B. Nagar, Andheri (East),
Mumbai.

2.Mrs. Sarita Abhishek Prashar @ Sarika,
Aged : 37 years, Occu: Housewife,
Residing at : Room no.15, Meghdoot Society,
Korge Nagar, J.B. Nagar, Andheri (East),
Mumbai.

...Applicants/accused.

V e r s u s

**The State of Maharashtra
(Amboli Police Station)**

...Respondent.

Shri Moin Khan, Advocate for the Applicants/accused.
Shri Pradyuman Chouhan, Advocate for the Intervener.
Shri Sachin Jadhav, A.P.P for the State.

**CORAM : A.Z.KHAN,
Additional Sessions Judge,**

Borivali Division, Dindoshi, Mumbai.
(C.R.NO.09)
Dt.28th December, 2022.

O R D E R

1. The present application is filed by the applicants/accused for the Anticipatory Bail. Perused the application and say thereon vide Exh.6. Heard the learned advocate Shri Moin Khan for the applicants/accused, the learned advocate Shri Pradyuman Chouhan for the Intervener & the learned A.P.P Shri Sachin Jadhav for the State. I have gone through the case papers, say of the police, interverner application Exh.5 and the documents. It is seen that the present applicants/accused alongwith the other accused alleged to have been committed the offences punishable u/s 376, 420, 380, 509, 323 & 506 r/w 34 of The I.P.C in Crime No.905 of 2022 wherein the offence is registered in Amboli Police Station, Mumbai.

2. It is pertinent to note here that the report lodged by the complainant/victim Dt.22.11.2022 alongwith the statements of the witnesses and the documents filed by the parties on record etc clearly shows that the complainant and the accused No.1 got acquaintance with each other and both are married but the accused No.1 committed the sexual intercourse with the complainant since 01.08.2021 to 22.11.2022 under the pretext of the marriage and the accused No.2 made the videography & also committed the theft of the golden ornaments etc worth Rs.11,32,700/- whereby the complainant went to the police station and lodged the report in which the police investigated the matter and recorded the statements of the witnesses.

3. Obviously, the report and the documents filed by the parties on record clearly shows that the complainant and the accused No.1 got intimacy with each other and both are married but the accused No.1 committed the sexual intercourse with the complainant repeatedly since 01.08.2021 to 22.11.2022 under the pretext of the marriage despite he was married as well as the accused No.2 made the videography while making sexual intercourse & also committed the theft of the golden ornaments worth etc Rs.11,32,700/-.

4. No doubt, the offence is serious and against the woman wherein the video and the mobile are yet to be recovered. There are several aspects involved in the present case whereby the custodial interrogation of the present applicants/accused are indeed essential otherwise the right to interrogate the present applicants/accused by the investigation Officer would be taken away which would certainly affect the case of the prosecution & ultimately the case of the complainant on merit.

5. However, the facts of the case cited by the learned advocate for the applicant/accused bearing ***1.Criminal Appeal No.1446 of 2022 between Beerbal Rajoriya Vs State of Madhya Pradesh decided on 05.09.2022, 2. Criminal Appeal No.962 of 2022 between Ansaar Mohammad Vs State of Rajasthan decided on 14.07.2022, 3.Anticipatory Bail Application no.1217 of 2021 between Madhav Vasave Vs the State of Maharashtra decided on 14.09.2021, 4. Anticipatory Bail Application No.1163 of 2022 between Vishal Gupta Vs The State of Maharashtra decided on***

27.04.2022, 5. Anticipatory Bail Application No.170 of 2022 between Sidhant Sonkamble Vs The State of Maharashtra decided on 28.03.2022, 6.Cr. M. P. No.488 of 2022 between Manish Sharma Vs The State of Jharkhand decided on 06.12.2022, 7.Criminal Appeal No.336 of 1996 between Uday Vs State of Karnataka decided on 19.02.2003, 8.Criminal Appeal No.1443 of 2018 between Dhruva-ram Sonar Vs State of Maharashtra decided on 22.11.2018, 9. Criminal Appeal No.2322 of 2010 between Deepak Gulati Vs State of Haryana decided on 20.05.2013, 10.Criminal Appeal No.504 of 2018 between Shivshankar Vs State of Karnataka decided on 06.04.2018 & 11.Criminal Appeal No.635 of 2020 between Mahesh-war Tigga Vs State of Jharkhand decided on 28.09.2020 and the facts of the case in hand are entirely different & thus the principles & ratio laid down by Their Hon'ble Lordships do not assist to the case of the applicant with due respect.

6. In such circumstances, I am of the view that this is not the fit case in which the applicants/accused can be released on anticipatory bail u/s 438 of The Cr.P.C & thus I proceed to pass the following order.

ORDER

The application is hereby rejected.

(A.Z.Khan)

Additional Session Judge,
Borivali Div, Dindoshi,
Mumbai.

Date :- 28.12.2022.

Dictated on : 28.12.2022.

Transcribed on : 28.12.2022.

Checked and Signed on : 28.12.2022.

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

28.12.2022 at 04.00 P.M.
UPLOAD DATE AND TIME

Ashok S. Sugdare
NAME OF STENOGRAPHER

Name of the Judge (With Court room no.)	SHRI. A. Z. KHAN (C.R. NO.09)
Date of Pronouncement of JUDGMENT/ ORDER	28.12.2022
JUDGMENT/ORDER signed by P.O. on	28.12.2022
JUDGMENT/ORDER uploaded on	28.12.2022