

ABA 1905/2022  
MHCC050063492022



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

**ANTICIPATORY BAIL APPLICATION NO.1905 OF 2022**

**IN  
C.R.NO.961 OF 2022**

Mr. Agatrao Sitaram Awate  
Aged about 38 years,  
Occ.- Rickshwa Driver  
Dharti SRA Building,  
Plot No.103, Babarekar Nagar, Charkop,  
Kandivali (West), Mumbai – 400 067

...Applicant

V/s.

The State of Maharashtra  
(At the instance of Charkop Police Station, Mumbai)

.....Respondent

Adv. Saroj Shinde for applicants/accused.  
APP. Ms. R. S. Kanojia for State/respondent.

**CORAM : H.H. Additional Sessions Judge,  
Shri S. N. Salve.  
Court Room No.15.  
Date : 13<sup>th</sup> December, 2022**

**ORAL ORDER**

This application Under Section 438 of the Code of Criminal Procedure is filed for grant of Bail in anticipation of arrest in Crime No. 961 of 2022 registered with Charkop Police Station, Mumbai for the offence punishable under Secs. 354, 323 and 509 of

the Indian Penal Code.

2. The applicant has contended that he is respectable person in the society and has not committed the offence as alleged by the prosecution. He is apprehending his arrest in connection with the aforesaid crime registered at the instance of report lodged by the informant alleging therein that the applicant kicked her into her stomach and squeezed her chest. According to the applicant, he is innocent and has not committed the offence as alleged. He contended that he has filed a complaint under section 138 of the Negotiable Instruments Act against the informant which is pending before the Ld. Metropolitan Magistrate 43<sup>rd</sup> Court, Borivali, Mumbai. He contended that the informant has lodged false report and trying to take the revenge. He submitted that his custodial interrogation is unwarranted. He is permanent resident of Mumbai so there is no possibility of evading the trial. He undertakes to obey the conditions imposed by the court and also ready to furnish the surety to the satisfaction of the court. Lastly, he prayed that he be enlarged on bail in anticipation of his arrest in the aforesaid crime.

3. The prosecution has resisted the application by filing Say (Exh. 3) contending that the accused has outraged the modesty of the informant. If the accused is enlarged on bail, possibility of committing the similar offence and threatening the informant cannot be ruled out. On these amongst other grounds, the prosecution sought for rejection of the anticipatory bail application.

4. I have heard Ld. Advocate for the applicant-accused and Ld. A.P.P. for the State.

5. After considering the arrival submissions, it would be appropriate to grant bail to the applicant – accused in anticipation of his arrest in the aforesaid crime for the following reasons;

**Firstly**, there are some financial disputes between the informant and the applicant and on account of that the applicant has filed a complaint under section 138 of the Negotiable Instruments Act against the informant.

**Secondly**, there is nothing in the FIR that the applicant had intention to outrage the modesty of the informant. Therefore, it is doubtful to hold that case falls under section 354 of the Indian Penal Code against the present applicant.

**Thirdly**, it is not the case of the prosecution that the present applicant has criminal antecedents.

**Fourthly**, custodial interrogation is not necessary for the investigation of the crime.

**Fifthly**, the informant has not sustained any serious injury in the alleged incident.

**Sixthly**, all offences are triable by the Magistrate and except the offence under section 354 of IPC are bailable offences.

**Lastly**, the applicant is permanent resident of Kandavli, Mumbai, so there is no possibility of evading the trial.

6. In view of the above stated reasons and considering the nature of the crime and manner in which it is committed, it would be appropriate to exercise discretion under section 438 of the Code

of Criminal Procedure to release the applicant on anticipatory bail. However, to strike out the balance between the liberty of the applicant and the interest of the prosecution to investigate the crime, it would be appropriate to direct the applicant to attend the Police Station, till filing of the charge-sheet.

In the result, the following order is made :

**ORDER**

1. Anticipatory Bail Application No.1905/2022 is allowed.
2. Charkop Police Station, Mumbai is directed that the applicant-accused Agatrao Sitaram Awate in Crime No. 961/2022 registered with Charkop Police Station, Mumbai for the offence punishable under Secs. 354, 323 and 509 of the Indian Penal Code, in the event of his arrest, he be released on bail on furnishing P.B. and S.B. in sum of Rs.15,000/- (Rupees Fifteen Thousand Only) subject to following conditions :
  - (a) The applicant-accused shall not directly or indirectly make any inducement, threat or promise to any other persons acquainted with the facts of the accusation against them so as to dissuade them from disclosing such facts to the Court to any other officer.
  - (b) The applicant-accused shall attend the concerned police station from **11:00 am to 03:00 pm on every Wednesday** till filing of the charge-sheet.
  - (c) The applicant-accused shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.

3. Breach of any of the conditions shall entail cancellation of bail.
4. Inform to the concerned Police Station, accordingly.
5. Accordingly, Anticipatory Bail Application No.1905/2022 stands disposed of.

Dt.13/12/2022

**(S. N. SALVE)**  
Addl. Sessions Judge,  
City Civil & Sessions Court,  
Borivali Division, Dindoshi, Mumbai

“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.”	
UPLOAD DATE 13.12.2022 AND TIME : 4.45 p.m.	Mrs. T. S. Bhogte NAME OF STENOGRAPHER

Name of the Judge (with Court Room No.)	HHJ Shri S. N. Salve (Court Room No.15)
Date of Pronouncement of Judgment/Order	13.12.2022
Judgment/Order signed by P.O. on	13.12.2022
Judgment/Order uploaded on	13.12.2022