

MHCC050063762022



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

ANTICIPATORY BAIL APPLICATION NO.1909 OF 2022

IN

C.R.NO.955 OF 2022

1. Mr. Ajinkya Vinod Deshmukh
Age- 31 years, Occ.- Self Employed,
R/o. : Ward No.4, Talegaon,
Dashasar, Amravati,
Maharashtra – 444710
Currently residing at
Flat No.1004, 56, C-Wing,
Triveni Towers, Bhoomi Park Road,
Ekta Nagar, Kandivali (West),
Mumbai – 400 057

2. Vinod Dadarao Deshmukh
Age -62 years, Occ.- Retired

3. Mrs. Hema Vinod Deshmukh
Age – 54 years, Occ.- Housewife,
R/o. Ward No.4, Talegaon,
Dashasar, Amravati,
Maharashtra – 444710

4. Mrs. Amruta Sangeet Kolhe
@ Amruta Vinod Deshmukh
Age – 29 years, Occ.- Housewife
R/o. Ward No.4, Talegaon,
Dashasar, Amravati,
Maharashtra – 444710
Currently residing at
Near Hanuman Mandir, Old
Hospital Road, Bada Bazar,
Bhandara - 441904

.....Applicants

V/s.

The State of Maharashtra

(At the instance of Charkop Police Station, Mumbai)

.....Respondent

Adv. Ashok Shukla 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 : 6th December, 2022**

ORAL ORDER

The applicants-accused have filed this application under section 438 of the Code of Criminal Procedure for grant of Bail in anticipation of arrest in Crime No.955/2022 registered with Charkop Police Station for the offence punishable under Secs. 498-A, 406, 420, 377 and 323 of the Indian Penal Code (in short I.P.C.).

2. The applicants have contended that they are innocent persons and have no concern with the alleged offence. They further contended that they are falsely implicated in the crime just to harass them with some ulterior motive. They further contended that they have never harassed the informant and never demanded money from her and therefore, no offence under section 498-A of I.P.C. is attracted against them. It is further contended by them that it is alleged in the FIR that the applicant is having illicit relations with another woman. However the said allegations levelled by the informant in the FIR are false. They further contended that they are having no criminal antecedents. They have contended that they are permanent resident of address stated in the application. They have

contended that they are having good reputation in the society and so their reputation would be harmed if they are arrested. They also contended that they would abide by each and every terms and conditions imposed by the Court. They have also contended that there is no need of custodial interrogation and no possibility of tampering with prosecution witnesses, if they are released on bail. On the above stated amongst other grounds, the applicants-accused have sought for their release on anticipatory bail.

3. The Ld. A.P.P. Ms. Kanojia for the State has resisted the application by filing say Exh.3 contending that there is strong prima facie evidence against the applicants-accused. She contended that the serious allegations against the applicant No.1 that he had unnatural intercourse with his wife are made against him. It is further contended by her that the applicant No.1 continuously demanding money from the informant and on account of that, he has mentally and physically harassed her. She contended that for the purpose of fair and detail investigation of the crime, their custodial interrogation is necessary for recovery of shridhan. She further contended that if the applicants-accused are released on bail, there is possibility of threatening the informant and witnesses so also it is difficult to police to recover shridhan from applicants-accused. She further contended that custodial interrogation of the applicants-accused is necessary for detail investigation. She contended that the investigation is not yet completed. On these amongst other grounds, the APP sought for rejection of the anticipatory bail application.

4. I have heard Ld. Advocate Shri Ashok Shukla for the

applicants-accused and Ld. A.P.P. Ms. Kanojia for the State.

5. Having heard the Ld. Advocate for the applicants-accused, Ld. A.P.P. for the State and the Ld. Advocate for the Intervenor and on going through the FIR, it may be stated that there is no need of custodial interrogation as far as applicant Nos.2 to 4 are concerned. This because the offences alleged against are only Secs. 498-A, 406, 420, 377, 323, read with Sec.34 of the I. P. C.. Considering the nature of the allegations made in the F.I.R. and in view of the decision of Their Lordships of Apex Court in the case of *Arnesh Kumar Vs. State of Bihar, in Cri. Appeal No.1277/2014*, it would be appropriate to grant anticipatory bail to the applicant Nos.2 to 4 directing the police not to arrest them in the event of their arrest.

6. In so far as the case of the applicant No.1 is concerned the informant has made serious allegations against him alleging the offence punishable under Sec.377 of the I. P. C.. After having considered the serious allegations made against the applicant No.1, I am of the opinion that custodial interrogation of the applicant No.1 is warranted for further investigation of the crime. Therefore, I am of the opinion that applicant No.1 is not entitled for bail in the event of his arrest in the aforesaid crime.

7. In so far as applicant Nos.2 to 4 are concerned, they are permanent resident of the address given in the title clause of the application and so there is no possibility of their fleeing away from justice. Apart from that, there is no question of tampering with

prosecution evidence considering the averments made in the First Information Report against them. Therefore, considering the nature and gravity of the accusations, it will be appropriate to grant bail to the applicant Nos.2 to 4 in the event of arrest in the aforesaid crime.

8. For these reasons, to my mind, the applicant Nos.2 to 4 are entitled for their release on bail since considering the nature of allegations, I do not find that there is prima facie case to hold that the applicant Nos.2 to 4 have committed offence punishable u/s. 406 of I.P.C. However, to strike out the balance between the liberty of the applicant Nos.2 to 4 and the interest of the prosecution to investigate the crime, it would be appropriate to direct the applicant Nos.2 to 4 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.1909 of 2022 is partly allowed.
2. Anticipatory Bil Application in respect of applicant No.1 is rejected.
3. The Charkop Police Station is directed that the Accused no. 2 Vinod Dadarao Deshmukh, Accused no. 3 Mrs. Hema Vinod Deshmukh, Accused no. 4 Mrs. Amruta Sangeet Kolhe @ Amruta Vinod Deshmukh in C.R.No.955/2022 registered with Charkop Police Station for the offence punishable under Secs. 498 A, 420, 406, 323, 377 read with Sec.34 of the Indian Penal Code, in the event of their arrest, they be released on bail on furnishing their P.B.

and S.B. in sum of Rs.15,000/- (Rupees Fifteen Thousand Only) each subject to following conditions :

(a) The applicants-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 applicants-accused shall attend the concerned police station from 11:00 am to 03:00 pm on every Sunday, till filing of the charge-sheet.

4. Breach of any of the conditions shall entail cancellation of bail.

5. Inform to the concerned Police Station, accordingly.

Dt.06/12/2022

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

Date of dictation on computer :06.12.2022
Signed by HHJ on 06.12.2022

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

UPLOAD DATE 06.12.2022
AND TIME : 5.00 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	06.12.2022
Judgment/Order signed by P.O. on	06.12.2022
Judgment/Order uploaded on	06.12.2022