

MHCC050068612022



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

**ANTICIPATORY BAIL APPLICATION NO.2057 OF 2022
IN
C.R.NO.1382 OF 2022**

Fateh Naseem Khan
Aged 23 years, Occ : Service,
Residing at Plot No.21, Room No.B/5,
Old Collector Compound,
Malvani, Mumbai – 400 095Applicant

V/s.

The State of Maharashtra
(At the instance of Malvani Police Station, Mumbai)
.....Respondent

Adv. Ms. Mallika Sharma h/f. Anjali Patil for applicant.
APP. Mr. Mahajan for State/respondent.

**CORAM : H.H. Additional Sessions Judge,
Shri S. N. Salve.**

Court Room No.15.

Date : 27th December, 2022

ORAL ORDER

The applicant has filed this application under section 438 of the Code of Criminal Procedure for grant of Bail in anticipation of arrest in Crime No.1382/2022 registered with Malwani Police Station for the offence punishable under Secs.354(D), 385, 506 and 509 of the Indian Penal Code.

2. It is contended by the applicant that he has not committed the offence as alleged by the prosecution and has been falsely implicated at the instance of the report lodged by the informant alleging therein that he outraged her modesty, uttered the obscene words and threatened to kill her. It is contended by the applicant that in the month of August, 2022 the informant was in need of some amount. The applicant transferred amount of Rs.30,000/- to Harshad Shaikh, the friend of informant. The informant having grudge against the applicant as he is getting married with the sister of the informant. She, therefore, falsely implicated in the aforesaid crime. According to the applicant, his custodial interrogation is unwarranted. He is ready to co-operate the investigating officer in the investigation of the crime. He further undertakes to obey the conditions, if any, imposed by the Court. Lastly, he prayed that he be enlarged on bail in anticipation of arrest in aforesaid crime.

3. The Ld. APP for the State opposed the application by contending that the informant as well as the applicant are residing in the same vicinity. If he released on bail, he may tamper the evidence. The Ld. APP, therefore, prayed to reject the application.

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

5. Having heard the Ld. Advocate for the applicant and Ld. A.P.P. for the State, I have gone through the bail application, say of the prosecution and documents annexed with the application.

Applicant is apprehending his arrest in connection with offence under Sec. 354(D), 385, 506 and 509 of the Indian Penal Code. The offences alleged against the accused are triable by the Magistrate. Considering the nature of allegations made against the applicant, there is no need of custodial interrogation of the applicant. Applicant appears to be permanent resident of Malvani, Mumbai. So, there is no possibility of fleeing away. The only apprehension of the prosecution is that if the applicant is enlarged on bail, he may tamper the prosecution evidence, can be taken care of by imposing stringent conditions. Considering the nature of the allegations and the fact that custodial interrogation is unwarranted, I am of the opinion that this is a fit case to exercise the power under Sec.438 of the Code of Criminal Procedure.

In the result, the following order is made :-

:ORDER:

1. Anticipatory Bail Application No.2057 of 2022 is allowed.
2. The Malwani Police Station is directed that applicant Fateh Naseem Khan in C.R.No.1382/2022 registered with Malwani Police Station for the offence punishable Under Section 354(D), 385, 506 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) He shall attend the concerned police station as and when required by the police station.
 - (b) He shall not commit an offence similar to the offence of which

he is accused, or suspected, of the commission of which he is suspected.

(c) He shall not directly or indirectly make any inducement, threat or promise to any other persons acquainted with the facts of the accusation against him so as to dissuade them from disclosing such facts to the Court to any other officer.

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

4. Inform to the concerned Police Station, accordingly.

5. Provisional cash bail is allowed for one month.

6. Accordingly, Anticipatory Bail Application No.2057 of 2022 stands disposed of.

Dt.27/12/2022

(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 28.12.2022
AND TIME : 4.00 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	27.12.2022
Judgment/Order signed by P.O. on	28.12.2022
Judgment/Order uploaded on	28.12.2022