

MHCC050063152022



**IN THE COURT OF SESSIONS, AT DINDOSHI
(BORIVALI DIVISION), GOREGAON, MUMBAI
ANTICIPATORY BAIL APPLICATION NO. 1899 OF 2022
C. R. No. 1106 of 2022
(CNR NO.MHCC05-006315-2022)**

1. Mr. Hadish Anul Ali

Age – 31 years, Occ : Service,

2. Mrs. Ruksana Ainuali Ali

Age – 49 years, Occ : Housewife,
Both are residing at : 13, Dattatray Niwas,
Carter Road No. 05, Nr. Vitthal Mandir,
Borivali (East), Mumbai – 400 066.

3. Mrs. Sana Madar Shaikh

Age – 26 years, Occ : Housewife,
Residing at : Room No. 1, Hamidiya Chawl,
Rani Sati Marg, Pathan Wadi, Malad (East),
Mumbai – 400 097.

...Applicants/Accused

V/s.

The State of Maharashtra

(Through Dindoshi Police Station, Mumbai
C.R.No. 1106/2022)

....Respondent

Ld. Advocate Mr. Mukesh Sharma for the Applicants/Accused.

Ld. APP Mr. Imran Shaikh for The State.

Ld. Adv. Mr. Jaydev Trivedi for the intervenor.

**CORAM: H.H.THE ADDITIONAL SESSIONS JUDGE
SHRI. SHRIKANT Y. BHOSALE
(C.R.NO.13)**

DATE : 12TH JANUARY, 2023

ORDER

In anticipation of arrest in C. R. No.1106/2022 registered with Dindoshi Police Station for the offence punishable under sections 498(A), 323, 504, 506(2) r/w 34 of IPC, the applicants have made this application for pre-arrest bail.

2. Prosecution vide say Exh. 2 resisted the application.
3. Heard Ld. Advocate Mr. Mukesh Sharma for the applicant and Ld. APP Mr. Imran Shaikh for The State and Ld. Adv. Mr. Jaydev Trivedi for the intervenor.
4. The case of the prosecution is that the informant and applicant no. 1 are knowing each other since 2012. In 2020 they entered into marriage and thereafter, informant started residing with applicant no. 1 i.e. husband and applicant no. 2 i.e. mother in law. It is alleged that applicant no. 1 is having extra-marital affair with applicant no. 3 and on that account there were frequent quarrels, the applicant no. 1 used to assault and used to pick up quarrel with the informant and since 07.11.2022 the informant is residing separately from the applicants. The first information is lodged on 08.11.2022.
5. According to Adv. for the applicant, applicant no. 3 is not relative of the husband and hence, section 498(A) can not be applied against her. It is his next contention that on 04.07.2022, 27.04.2022 cross complaints are lodged by informant and applicant no. 1 against each other. The basic dispute is regarding the extra-marital affair. The allegation of assault, abusation etc are general in nature and therefore,

there is no need of custodial interrogation.

6. Ld. APP submits that the marriage appears to be inter religion. Extra-marital affair is one sort of harassment, therefore, in the present case it is seen that the informant was subjected to harassment. If the accused remained on bail, he is likely to commit similar offence.

7. Ld. Adv for intervenor in addition submits that, the matter is of serious nature, the informant is helpless and is residing alone. According to him the applicant no. 1 has threatened and assaulted the informant on several occasion and therefore, it is absolutely necessary that applicant no. 1 at least should be arrested. In the alternative, it is submitted that in case anticipatory bail is granted, stringent conditions be imposed to protect the informant.

8. Having regards to the arguments and material on record, it is seen that the allegation of harassment are in general nature. It is true that the informant has also made allegation of physical assault, said is not required custodial interrogation. There is no serious allegation against applicant nos. 2 & 3. It is further seen that the informant is residing separately and that too alone, in such circumstances, even if the bail is granted, it is necessary that some stringent conditions should be imposed, so that the informant shall feel safe. In view of the above, following order is passed.

ORDER

1. Anticipatory Bail Application No. 1899 of 2022 stands conditionally allowed.

2. In the event of arrest, in aforesaid C. R. No.1106/2022 for the offence punishable under sections 498(A), 504, 506(2) r/w 34 of The Indian Penal Code, 1860, registered with Dindoshi Police Station,

Mumbai applicant/accused Nos. 1 to 3 respectively **Hadish Anul Ali, Ruksana Ainuali Ali and Sana Madar Shaikh** be released on their executing P. R. Bond of Rs. 15,000/- (Rupees Fifteen Thousand Only) each and on furnishing one surety of like amount and on accepting and complying following terms and conditions -

- a) The informant has supplied her address at Daulat Nagar, Borivali (E). Applicant No. 1 is directed that he shall not enter into 100 meter periphery of the residence of the informant till further order.
- b) The applicants are directed that they shall not commit any body offence during the pendency of the case.
- c) The applicant no. 1 shall not make any communication with the informant by any means, except for settlement of the case if any and that too through the mediation process established by the Court only.
- d) The applicants shall not tamper with prosecution witnesses in any way.
- e) The applicants shall produce their respective Identity Card, address proof and furnish their mobile number as well as land-line number with bail papers.
- f) The applicant No. 1 shall attend concerned police station on 14.01.2023, 16.01.2023 and 19.01.2023 between 10.00 a.m. to 2.00 p.m. and thereafter, on each first day of every month till further order.
- g) The applicants shall attend the trial regularly.
- h) The observation made in this order are restricted to the bail application only and the Trial Court shall not get influence by the observation of this Court.

3. Anticipatory Bail Application No. 1899 of 2022 stands disposed of.

ABA 1899/2022

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ORDER

(Dictated and pronounced in presence of Ld. Advocate for Applicant & Ld. APP)

Date: 12.01.2023

(Shrikant Y. Bhosale)

The Addl. Sessions Judge
City Civil & Sessions Court,
Borivali Division, Dindoshi.

Dictated on	:	12.01.2023
Transcribed on	:	12.01.2023
Checked & corrected on	:	16.01.2023
Signed on	:	16.01.2023
Sent to Dept. on	:	

ABA 1899/2022

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ORDER

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

Date : 17/01/2023

Time : 11.45 A.M.

UPLOAD DATE AND TIME

Ms. Tejal C. Rane

(Stenographer Grade-I)

NAME OF STENOGRAPHER

Name of the Judge (with Court room no.)

**HHJ S. Y. BHOSALE
(Court Room No.13)**

Date of Pronouncement of
JUDGMENT/ORDER

12.01.2023

JUDGMENT/ORDER signed by P.O. on

16.01.2023

JUDGMENT/ORDER uploaded on

17.01.2023