

MHCC050064392022



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

ANTICIPATORY BAIL APPLICATION NO.1928 OF 2022

IN

C.R.NO.966 OF 2022

1. Mr. Jiva Ramchandra Munecha
Aged 33 years, Occ.- Service

2. Mrs. Parul Ramchandra Munecha
Aged – 58 years, Occ.- House Maker

Both Add/at, 7/8 Navin Municipal Colony,
Hasnabad, Opp. R. K. Nagar, Khar (W),
Mumbai – 400 052

...Applicants/Accused

V/s.

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

.....Respondent

Adv. Supriyanka Maurya 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 : 14th December, 2022**

ORAL ORDER

The applicant-accused No.1 and 2 have filed this application under section 438 of the Code of Criminal Procedure for grant of Bail in anticipation of arrest in Crime No. 966 of 2022

registered with Charkop Police Station for the offence punishable under Secs. 498-A, 323, 504 and 506 read with Sec.34 of the Indian Penal Code.

2. The applicants-accused 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 physically and mentally. They further contended that they never demanded dowry from her and on account of that they never harassed her. Therefore, no offence under section 498-A of IPC is attracted against them. They further contended that the allegations of the informant with respect to threatening her and taking away her ornaments and documents patently false. They further contended that the informant herself started suspecting the character of the applicant No. 1. They further contended that they are having no criminal antecedents. They have contended that they are permanent residents 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. 4 contending that there is strong prima facie evidence against the applicants-accused showing their involvement in the crime. She contended that the applicants-accused were harassing the informant physically and mentally. She contended that for the purpose of fair and detail investigation of the crime, their custodial interrogation is necessary. She further contended that if the applicants-accused are released on bail, there is possibility of threatening the informant and witnesses. 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. The informant has resisted the Bail Application by filing Say and Written Arguments. She has also placed on record Photographs and Pendrive alongwith Certificate Under Section 65B of the Indian Evidence Act to show that the applicant No.1 is having affair with another lady. The informant, therefore, prayed to reject the application for anticipatory bail.

5. I have heard Ld. Advocate Supriyanka Maurya for the applicants-accused, Ld. A.P.P. Ms. Kanojia for the State and the Ld. Advocate Nirali Sharma for the Informant at length.

6. Having heard the Ld. Advocate for the applicants-accused, Ld. A.P.P. for the State and the Ld. Advocate for the Informant and on going through the FIR, it may be stated that there is no need of custodial interrogation as far as applicants-accused are concerned. This because the offences alleged against are only

Secs.498-A, 323, 504, 506 read with Sec.34 of the Indian Penal Code. 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 directing the police not to arrest them in the event of their arrest.

7. Furthermore, it appears that the applicants-accused are permanent residents 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. Therefore, considering the nature and gravity of the accusations, it will be appropriate to grant bail to the applicants-accused in the event of arrest in the aforesaid crime. However, to strike out the balance between the liberty of the applicants and the interest of the prosecution to investigate the crime, it would be appropriate to direct the applicants to attend the Police Station, till filing of the charge-sheet.

In the result, the following order is made :

: O R D E R :

1. Anticipatory Bail Application No.1928 of 2022 is allowed.
2. The Charkop Police Station is directed that the applicant No.1 Jiva Ramchandra Munecha and applicant No.2 Mrs. Parul Ramchandra Munecha in Crime No. 966/2022 registered with Charkop Police Station for the offence punishable under Secs. 498-A,

323, 504, 506 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 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 shall attend the concerned police station from 11:00 am to 03:00 pm on every Sunday till filing of the charge-sheet.

(c) The shall not commit an offence similar to the offence of which they are accused, or suspected, of the commission of which they are 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.1928/2022 stands disposed of.

Dt.14/12/2022

(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 15.12.2022
AND TIME : 1.30 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	14.12.2022
Judgment/Order signed by P.O. on	15.12.2022
Judgment/Order uploaded on	15.12.2022