

MHCC050065612022



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

**ANTICIPATORY BAIL APPLICATION NO.1982 OF 2022**

**IN**

**C.R. NO. 1706 OF 2022**

**(CNR NO.MHCC05-006561-2022)**

**Kisan Gurakha**

**Aged : 42 years, Occ : service**

**Residing at : Room No.18, Boir Chawl,**

**Shivneri Nagar, C.S. Road,**

**Near Vidya Mandir School,**

**Dahisar (East), Mumbai- 400 068.**

**...Applicant.**

**Versus**

**The State of Maharashtra**

**At the instance of Dahisar Police Station**

**vide C.R. No.1706 of 2022.**

**...Respondent.**

**Ld. Adv. Sudhir Bhardwaj for applicant.**

**Ld. APP. Pachpohar for Respondent.**

**CORAM : H.H. ADDITIONAL SESSIONS JUDGE**

**SHRI D. G. DHOBLE (C.R. No.7)**

**DATE : 15<sup>th</sup> December, 2022.**

**ORDER**

This is an application under Section 438 of Criminal Procedure Code for anticipatory bail.

2 The applicant/accused No.1 is apprehended his arrest in Crime No.1706/2022 registered with Dahisar Police Station for the offence punishable under Sections 354, 323, 504, 506 r/w 34 of Indian Penal Code.

3. The prosecution case in short is that, on 04/012/2022 at 23.00 hours the informant and her husband went to demand the ration card at the house of applicant. At that time the applicant/accused no. 1 and 2 threatened that they will not give them ration card. Thereafter, there was an altercation between the applicant and husband of the informant. When the informant went to rescue her husband, accused no. 2 Vaishali pulled her hair back and threatened to strangulate her. At the same time, the applicant/accused no. 1 abused and assaulted on the right eye of the informant by hand. It is alleged that the applicant during quarrel held her hand and touched her chest with intent to outrage her modesty. Due to which she felt ashamed and lodged report on the next day of the incident.

4. I have heard the Ld. Counsel for the applicant/accused no. 1 and Ld. APP for the state. Perused the application, say filed by the respondent and investigation case papers.

5. Learned counsel for the applicant submitted that the applicant has been falsely implicated. The applicant has no any concerned with the alleged offence. On the other hand, the informant and her husband on that day visited their house in drunken condition, abused and started assaulting by fist and blows. The applicant lodged report on the basis of which N.C. Complaint No.4100 under Sections 323, 504, 506 of IPC registered against the informant and her husband. The applicant is

father-in-law and he would not do so with his daughter-in-law. There is no criminal antecedence of like offence to the discredit of applicant. The accused no. 2 is released on anticipatory bail by this court. The offence is triable by Metropolitan Magistrate. The applicant is ready to abide all terms and condition as the court will impose. Having regard to the allegation the custodial interrogation of the applicant is not required. Hence, he prayed that applicant is entitled for enlargement on bail as prayed for.

6 On the other hand, the learned APP appearing for the State submitted that the applicant cannot claim parity with the accused no. 2. The main allegation of outraging modesty is against the applicant. There is prima facie involvement of the applicant in alleged offences. The custodial interrogation of the applicant is required. If the applicant is released on bail, he may tamper the prosecution witnesses. It is further submitted that considering the nature of the offence and involvement, the application of applicant may be rejected.

7 The applicant/accused no. 1 is father-in-law and accused no.2 is mother-in-law of the informant. The informant went to the house of the accused to ask for a ration card. At that time, there was a quarrel between them over the ration card. The applicant/accused No.1 lodged a report with the respondent on the same day in the night at 12.40 pm, alleging that the informant and her husband had made quarrel on the ration card and beat up, verbally abused and threatened to kill them. On the basis of said report, the respondent registered N.C case No.4100/22 dated 05/12/2022 against the informant and her husband.

8 The informant reported about the present incident towards respondent against applicant/accused after 18 hours of the incident after filling report by the present applicant. The accused no. 2 has been granted anticipatory bail by this court vide order dated 14/12/2022. The Ld. APP for the state argued that accused no. 2's bail order cannot be compared with respect to the present applicant. Because accused no. 2 was not accused of molesting the informant by pressing her chest. I agree with the submission of Ld. APP. But in view of the facts and allegations of the case, there is no need for the custodial interrogation of the applicant.

9 The counter case is also registered against the informant and her husband. There is no criminal antecedent of like offence to the discredit of applicant. The informant and applicant/accused no. 1 resides at different house. Therefore question of pressurizing informant does not arise. There is fear to the prosecution that if the applicant is released on bail, the witness will be pressurized. The applicant will tamper the prosecution witnesses and flee from justice. This fear can be removed or taken care of by imposing strict conditions on applicant. The applicant is ready to abide any condition and to co-operate investigation. In such circumstances, I am inclined to grant the bail application of the applicant. Hence I pass following order

### ORDER

- 1 Anticipatory Bail Application No.1982 of 2022 is allowed.
- 2 In the event of arrest of applicant, **Kisan Gurakha** he shall be released on bail on furnishing P.R. Bond of Rs.15,000/- (Rupees Fifteen Thousand Only) with one solvent surety in the like amount in the Crime No.1706/2022 registered with Dahisar Police Station for the offence punishable under Sections 354, 323, 504, 506 r/w 34 of Indian Penal Code with following condition.

- 3 Accused/applicant shall not directly or indirectly make any threat and shall not tamper prosecution witnesses.
- 4 Accused/applicant shall attend Dahisar Police Station on every Monday in between 4.00 p.m. to 5.00 p.m. till filing of chargesheet.
- 5 Accused/applicant shall make himself available for investigation as and when required by Investigating Officer.
- 6 Inform to the Dahisar Police Station accordingly.
- 7 Anticipatory Bail Application No.1982 of 2022 stands disposed of accordingly in above terms.

Dictated and pronounced in open Court.

Dated : 15/12/2022

**(D. G. DHOBLE)**  
Additional Sessions Judge,  
Borivali Div.,Dindoshi, Mumbai.

Dictated on : : 15/12/2022  
Transcribed by steno on : : 16/12/2022  
Checked & Signed by HHJ on : : 16/12/2022

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

Date : 17/12/2022

Time : 10.55 A.M.

UPLOAD DATE AND TIME

S.A.Kapare  
(Stenographer Grade-I)  
NAME OF STENOGRAPHER

Name of the Judge (with Court room no.)	HHJ Datta G. Dhoble (C.R. No.7)
Date of Pronouncement of JUDGMENT/ORDER	15/12/2022
JUDGMENT/ORDER signed by P.O. on	16/12/2022
JUDGMENT/ORDER uploaded on	17/12/2022

