



**IN THE COURT OF SPECIAL JUDGE UNDER THE PROTECTION OF  
CHILDREN FROM SEXUAL OFFENCES ACT, 2012 BORIVALI  
DIVISION, DINDOSHI, MUMBAI.**

**ANTICIPATORY BAIL APPLICATION 1947 OF 2022**

**( CNR NO.: MHCC05-006496-2022 )**

**Mahesh Menon**

R/at. Viceroy Co.Op.Hsg.Society,  
Thakur Village, Kandivali E.  
Mumbai 400 101

**...Applicant**

**V/s.**

**The State of Maharashtra,**

( At the instance of Samta Nagar  
Police Station vide C.R.No.1447/22)

**...Respondent/State.**

**Appearance:-**

Shri. Gurav Shukla, Advocate for the accused.

Shri. Narendra Kumar Sharma, Advocate for the intervener.

Shri. Ambekar, APP for the State/respondent.

**CORAM : HER HONOUR ADDL. SESSIONS JUDGE  
SMT.S.M.TAKALIKAR, (C.R.NO.12)**

**DATE : 20.12.2022**

**ORDER**

Present application is filed by the accused/applicant under Section 438 of Code of Criminal Procedure for Anticipatory bail in connection with C.R.No 1447 of 2022 registered with Samta Nagar Police Station for offences punishable under Section 376, 376(2)(N), 506 of the Indian Penal Code and Sections 6 and 10 of the Protection of Children from Sexual Offences Act, 2012.

**Facts in short of present application are as follows ;**

2. Complainant is mother of the victim. Victim is 9 yrs old. Applicant is the husband of the complainant. Complainant is working woman. The applicant is vice president of Idea and Vodafone company. Victim is studying in 4<sup>th</sup> standard. Since August 2022 complainant noticed that victim is keeping quite and is in frightened condition. For many times she asked the victim what had happened, but victim has not told anything. Victim was scared to take her articles from the cupboard which is in the room of Pooja. She has to cross the room of her father for going to that room. Victim started crying. Victim was saying to her mother as “Can we leave this house and go, I don't want to live in this house, when we leaving, I am very scared”. Complainant thought that some problem is there. Mother of the complainant told to her that victim used to go to the room of her father, used to come out by crying. there was change in the behavior of the victim. In the month of October 2022 complainant took the victim in confidence and asked her what had happened. Victim told that since last 3 months her father used to call her in the room, when she go to that room he used to shut the door, her father touched her badly. She stated that her father used to rub her private part, she felt uncomfortable, her father threatened her as in case she disclosed this fact to anybody then he will jump from the terrace and asked her when he call her then he know how to get her there. Complainant was shocked. Due to exam of the victim, she has not lodge complaint immediately. Thereafter she went to police station and lodged complaint of the incident. On the basis of said complaint above mentioned crime has been registered against the accused.

3. Applicant in his application stated that false complaint is filed. He is innocent, has not done any act with his own daughter. It is

stated that he married with the complainant in 2001. They resided together till 2022. It is stated that in 2020 the father of the complainant felt ill. Therefore he was admitted in the hospital. Complainant was looking after her father. In the same hospital, wife of one Tushar Shah was also admitted. Complainant came close to Tushar Shah. Thereafter wife of Tushar Shah was expired. Father of the complainant also expired. Thereafter love relationship started. Complainant during lockdown period also was meeting Tushar Shah at various places. Though due to lockdown work was completely stopped, but complainant used to go out of the house on the pretext of doing work and used to meet that Tushar Shah. The friends of the applicant found the complainant with Tushar Shah, that time they gave understanding to the complainant but complainant got angry on them. Complainant used to call the said person to the house in his absence. At that time also, friend of the applicant caught complainant, gave understanding to her. Therefore friends of the applicant told about relationship of the complainant with that person to the applicant. Applicant asked complainant about it, that time complainant raised quarrel with him.

4. It is stated that since then dispute started between them. Complainant wanted to take divorce and wanted to take huge amount from this applicant, for that reason she filed complaint under Section 498-A of the IPC. That time applicant has filed Anticipatory Bail Application. the the court after watching video of the complainant has granted bail to the applicant. Thereafter complainant filed complaint under Section 377 of the IPC against this applicant. Thereafter she filed application under Domestic Violence Act against this applicant, demanded divorce and huge amount of Rs.5 Crores from this applicant. Complainant started harassing the applicant on one and another count.

This applicant has lodged many NC cases against the complainant. He has given letter to the concerned police station about proper investigation of the case filed by the complainant.

5. It is stated that he has not committed any offence with his own daughter. Complainant with intention to create evidence has mis-directed CCTV installed in room for many times. The applicant asked the complainant, then also she mis-directed CCTV. The applicant is having video evidence of the complainant mis-directing the CCTV. Complainant wanted to create evidence. She wants anyhow to keep the applicant in jail. Therefore she has filed false case against the accused. It is stated that accused is ready to undergo Narco test, Lie-detector test, Brain mapping test to prove his innocence. It is also stated that false case is filed, therefore custodial interrogation of the applicant is not necessary. The applicant is permanent resident of Mumbai, has no criminal antecedents. He would co-operate the police in investigation as and when called by the police. Hence prayed that application be allowed.

6. Prosecution has filed say below Exh.2. It is stated that nature of offence is serious. Statement of victim under Section 164 is yet to be recorded. Since registration of crime the applicant is absconding. The medical examination of the applicant is required to be done. Custodial interrogation of the applicant is necessary. Hence prayed that application be rejected.

7. Complainant is filed written submission. Her written submission is nothing but repetition of the complaint filed under Section 498-A of the Cr.P.C., repetition of allegations made under

Domestic Violence Act and submitted that nature of offence is serious. Custodial interrogation of the applicant is necessary. Hence prayed that application be rejected.

8. Ld. Advocate for the applicant in his arguments submitted that victim is daughter of the applicant. There is delay in lodging complaint. He further submitted that 3 other persons were also residing in the same house. That the mother of the complainant and one another care taker is also residing there. He submitted that complainant got acquainted with Tushar Shah and was having affair with him. Since the applicant came to know about that affair she lodge complaint under Section 498-A of the IPC. In that crime Anticipatory bail was granted. Thereafter she filed Domestic Violence case and demanded Rs.5 Crore from the applicant. Her intention is to put pressure on the applicant. She filed complaint under Section 377 of the IPC. Complainant has drove out the cook who suppose to support the applicant. She mis-directed the CCTV installed in the house. She tampered the CCTV. He further submitted that complainant has not taken the victim to the doctor. The school authority has not made complaint about any change in the behavior of the victim. The police authority has not done medical of the victim. The applicant is ready to undergo Narco test, Lie-detector test, Brain mapping. There is no question to tamper the evidence. For all these reasons he prayed that application be allowed. He invited my attention towards various NC cases filed by the applicant against the complainant and submitted that the intention of the complainant is just to harass the applicant. Hence prayed that applicant be released on Anticipatory Bail.

9. Ld. APP submitted that allegations are under Section

376(3) of the IPC, Section 6 of the POCSO Act. These allegations are serious. The allegations are made against the own father of the victim. He further submitted that statement of the victim under Section 164 of the Cr.P.C. is yet to be recorded. Therefore there are chances of tampering witnesses. CCTV footage are to be collected. Applicant has given reply to the police and not to the complainant. The complainant has no intention to implicate her daughter in the false case. The medical examination of the accused is required to be done. Custodial interrogation of the applicant is necessary. There are chances of fleeing from justice. Hence prayed that application be rejected.

10. Ld. Advocate for the intervener submitted that the applicant is influential person. No wife would make such false allegations against her husband. The applicant has made false allegations against the complainant. He further submitted that for detailed investigation in the crime, custodial interrogation of the applicant is necessary. Hence prayed that application be rejected.

11. Perused application, say filed and also perused document filed.

12. It is true that the victim is daughter of the applicant. It is true that the complainant and her husband are working. It is also brought on record that mother of the complainant, care taker of the victim also resides in the house. It is not in dispute that complainant lodged complaint against this applicant under Section 498-A of the I.P.C.. When that FIR was registered this applicant approached Sessions Court and filed Anticipatory Bail. He has been granted bail. It is true that this complainant has filed application under Domestic Violence Act

against the applicant and that is pending. The applicant has produced copies of the letters given to the concerned police station for proper investigation of the crime registered under Section 498-A, 377 of the I.P.C.. It also appears that the dispute between the applicant and complainant started since 2020. According to the applicant this dispute started because of the affair of the complainant with one that person and that applicant came to know about that affair, that time complainant filed complaint under Section 498-A of the Cr.P.C.. Whether dispute was because of the alleged affair of the complainant with that person can be decided at the time of trial.

13. In this case court has to see whether allegation are serious or not, gravity of offence and whether there are chances of fleeing from justice. It is true that there is matrimonial dispute between the complainant and accused but the complainant in her complaint specifically stated that since August 2022 victim was in disturb condition. Though repeatedly asked but victim has not stated anything. In October 2022 victim disclosed the fact that accused, her father used to call her. Complainant in her complaint stated that her mother and care taker also told to her about behavior of the victim. That means there are other witnesses who is independent witness i.e. care taker of the victim.

14. Victim is daughter of the applicant. Applicant resides in the same house in which victim resides. The allegations is that this applicant rubbed the private part of the victim for many times. No doubt complainant has not taken her to the hospital but that does not mean that only on that ground the Anticipatory Bail be granted to the applicant. Victim is 9 yrs old. The allegation of rubbing private part of

the victim is made against the accused. These allegations are serious in nature. The nature and gravity of offence alleged against these applicant is serious. Further the applicant is president of Idea and Vodafone company. He is influence person. There are chances of fleeing from justice. Say filed by the I.O. shows that he has recorded statement of the victim. The medical of the victim is also done.

15. Taking into consideration allegations made against the applicant are grave and chances of fleeing from justice, further as per the applicant CCTV cameras are installed in his house, for detail investigation in such serious offences, in my opinion, custodial interrogation of the applicant is necessary and medical examination of the applicant is required to be done. Considering all these facts, custodial interrogation of the applicant is necessary. Therefore the applicant has not made out just and reasonable ground for grant of Anticipatory Bail. Hence his application deserves to be rejected and I pass following order:

**ORDER:**

1. Anticipatory Bail Application No. 1947 of 2022 is hereby rejected.
2. Anticipatory Bail Application No. 1947 of 2022 stands disposed of accordingly.

**(S. M. TAKALIKAR)**  
**Special Judge, under the POCSO Act**  
**Borivali (Div), Dindoshi,**  
**Goregaon, Mumbai.**

**Date : 20.12.2022**

Dictated on : 20.12.2022  
Transcribed on : 20.12.2022  
Date of sign : 20.12.2022



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

**20.12.2022, 05.50 pm**  
**UPLOAD DATE AND TIME**

**Mrs. Revati V. Kadam**  
**NAME OF STENOGRAPHER**

<b>Name of the Judge (with Court Room No.)</b>	<b>HHJ Smt. S. M. TAKALIKAR ,(C.R.No.12) Addl. Judge.,City Civil &amp; Sessions Court, Dindoshi</b>
<b>Date of pronouncement of /Order</b>	<b>20.12.2022</b>
<b>Order signed by P.O. on</b>	<b>20.12.2022</b>
<b>order uploaded on</b>	<b>20.12.2022</b>