

ABA 1987/2022

::1::

ORDER

MHCC050066552022



**IN THE COURT OF SESSIONS, AT DINDOSHI
(BORIVALI DIVISION), GOREGAON, MUMBAI
ANTICIPATORY BAIL APPLICATION NO. 1987 OF 2022
(C. R. No. 958/2022)
(CNR NO.MHCC05-006655-2022)**

Mohd. Abbas Ahmed Bahadur Khan
Age – 52 years, Occ : Unemployed,
Residing at : Room No. 604, Interface Heights,
E-wing, 6th Floor, Off Link Road, Behind
Infinity Mall, Malad (W), Mumbai – 400 064. ...**Applicant/Accused**

V/s.

The State of Maharashtra
(Through Juhu Police Station, Mumbai) ...**Respondent**

Ld. Advocate Neha Chhajalane for the Applicant/Accused.

Ld. APP Mr. Sachin Jadhav for The State.

**CORAM: H.H.THE ADDITIONAL SESSIONS JUDGE
SHRI. SHRIKANT Y. BHOSALE
(C.R.NO.9)**

DATE : 19TH JANUARY, 2023

ORDER

In anticipation of arrest in C.R.No. 958/22 registered with Juhu police station under section 500, 506(2), 509 of the IPC and Sec. 67 of Information and Technology Act, the applicant has filed this application for pre-arrest bail.

2. Heard Ld. Adv Neha Chhajalane for the applicant and Ld. APP Mr. Sachin Jadhav for The State.

3. According to prosecution the applicant and the informant are relative of each other and are member of family Whats App group. There is some immovable property wherein the applicant, the informant and other family members claims their respective rights, thus, there is dispute between the family for the property. On this background, the informant alleges that on 01.08.2022 the applicant posted one audio clip on the Whats App family group. The informant alleges that said audio was containing abusive language and threats and therefore the first information was lodged on 22.08.2022.

4. Ld. Adv Neha Chhajalane for the applicant vehemently submits that admittedly there is dispute between the informant and the applicant. According to her the informant provoked the applicant and therefore, there was exchange of some messages. She further submits that the case of the prosecution is taken as it is. Section 67 of I.T. Act has no application. The rest of the offences are bailable, hence, the applicant is entitled for bail.

5. As against this Ld. APP Sachin Jadhav submit that the device which was used by the applicant to forward the audio clip on a Whats App group, is an important piece of evidence and said needs to be seized and for that purpose custody of the applicant is necessary.

6. After having regards it is seen that the informant has supplied her mobile phone to the police and some screen-shots of the Whats App messages are produced, however, the contents in the audio

clip are not appearing in the first information and therefore, it is difficult at this stage to accept that section 67 of IT Act has any application in the present case, since as per section 67 of the IT Act there should be publishing or transmitting obscene material in electronic form. The prosecution has not provided any material to show that the obscene material was transmitted. When the other offences are bailable and there is basic question about the application of Section 67 of I.T, further grounds of the prosecution need not be considered. The Court is therefore of the view that case for anticipatory bail is made out, of course some conditions needs to be imposed. Hence, the order.

ORDER

1. Anticipatory Bail Application No. 1987 of 2022 stands conditionally allowed.
2. In the event of arrest, in aforesaid C. R. No.958/2022 for the offence punishable under sections 500, 506(2), 509 of the Indian Penal Code, 1860 and Sec. 67 of Information and Technology Act registered with Juhu Police Station, applicant/accused **Mohd. Abbas Ahmed Bahadur Khan** be released on his executing P. R. Bond of Rs. 15,000/- (Rupees Fifteen Thousand Only) and on furnishing one surety of like amount and on observing following terms and conditions -
 - a) He shall produce his Identity Card, address proof and furnish his mobile number and land-line number with bail bonds.
 - b) He shall attend concerned Police Station on 21.01.2023 and 24.01.2023 between 10.00 a.m. to 1.00 p.m. and thereafter, if required by the investigation officer by his order in writing.
 - c) He is also directed that if the investigation requires he shall produce his mobile phone before the investigation officer and co-operate with him.
 - d) He shall not commit similar offence during bail period.

ABA 1987/2022

::4::

ORDER

e) He shall attend the trial regularly.

3. The observation made in this order are restricted to this application only and the Trial Court shall not get influenced by the observation of this Court.

4. Anticipatory Bail Application No. 1987 of 2022 stands disposed off.

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

Date: 19.01.2023

(Shrikant Y. Bhosale)
The Addl. Sessions Judge
City Civil & Sessions Court,
Borivali Division, Dindoshi.

Dictated on	: 19.01.2023
Transcribed on	: 19.01.2023
Checked & corrected on	: 19.01.2023
Signed on	: 19.01.2023
Sent to Dept. on	:

CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER”	
Date : 20/01/2023 Time : 10.52 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.9)
Date of Pronouncement of JUDGMENT/ORDER	19.01.2023
JUDGMENT/ORDER signed by P.O. on	19.01.2023
JUDGMENT/ORDER uploaded on	20.01.2023