



**IN THE COURT OF SESSIONS AT DINDOSHI
(BORIVALI DIVISION), GOREGAON, MUMBAI**
ANTICIPATORY BAIL APPLICATION NO.1927 OF 2022
IN
(C. R. No.417 of 2022 of Jogeshwari Police Station)

Mr. Mohd. Asif Hanif Qureshi,]
Age 38 years, Occ : Service,]
R.No.1, Jon Chawl-4, Francis Wadi,]
Near Bandrekar Wadi, Subhash Road,]
Jogeshwari (East),]
Mumbai 400 060.] ...Applicant

Versus

The State of Maharashtra,]
At the instance of Jogeshwari Police]
Station.] ...Respondent

Ld. Adv. S.S. Sonawane for the applicant.
Ld. APP Mrs. Usha Jadhav, for the State.
Ld. Adv. B.N. Shukla for intervenor.

**CORAM : SHRI M.I. LOKWANI,
ADDITIONAL SESSIONS JUDGE,
COURT ROOM NO.10.**

DATE : 20th December, 2022

ORAL ORDER

This is an application filed by the applicant under Section 438 of the Code of Criminal Procedure 1973, for granting anticipatory bail in connection with Crime No.417/2022, registered with Jogeshwari Police Station for the offences punishable under Sections 498A, 377, 323, 504, 506 r/w. 34 of the Indian Penal Code.

Brief facts of the prosecution case are as under :

2. The complainant Smt. Shabnam Asif Qureshi alleged that her marriage took place with the applicant on 11.06.2012. They have two daughters and one son out of the said wedlock. It is alleged that from June, 2012 to May, 2022, the applicant/accused gave ill-treatment to the complainant and demanding dowry. In the aforesaid period, the complainant is subjected to mental and physical cruelty from time to time. The applicant has forcibly beaten and drew out the complainant from the house. It is submitted that in the aforesaid period, the applicant used to show porn videos to the complainant against her will and had repeated unnatural sex with her. The applicant under intoxication of liquor, used to beat the complainant and threat to kill. The complainant is subjected to cruelty at the hands of applicant. Lastly she approached to Jogeshwari Police Station and lodged the report by which crime No. 417/2022 registered against the applicant.

3. Ld. Advocate for applicant submitted that applicant is innocent. He has not committed the alleged offence. All the allegations made against him are false. He has not committed unnatural sex nor he beat or abused the complainant. The applicant is innocent and falsely implicated in this crime. The applicant is ready to abide any condition imposed upon him. Lastly prayed for allow the application.

4. On the other hand, Ld. APP raised strong objection in view of reply at Ex.2 and submitted that complainant was subjected to physical and mental cruelty at the hands of applicant. He also used to do unnatural sex with the complainant and gave threat, if she disclosed about the fact of unnatural sex to anyone, then he will kill her. The

applicant not co-operating in investigation inspite of issued notice under Section 41(a) of Cr.P.C. Hence, prayed for rejection of the application.

5. The intervenor appeared. She filed application in view of Ex.4 and also filed some documents along with Ex.4. She submitted as per the contents of FIR, she opposed the Anticipatory Bail application.

6. Considering the above submission of both sides and gone through record, it appears that applicant is involved in Crime No. 417/2022, registered at Jogeshwari Police Station for the offences punishable under Sections 498A, 377, 323, 504, 506 r/w. 34 of the Indian Penal Code. It appears that there is matrimonial dispute between the complainant and the applicant. The allegations made against the applicant about cruelty, harassment, unnatural sex, criminal intimidation etc. The record prima facie reveals that applicant and complainant were married on 11.06.2012 as per Muslim Rites and Customs. They have three children out of the said wedlock. The applicant left matrimonial home in May, 2022. In June, 2022, she filed petition under Domestic Violence Act in Andheri Court. After that in August, 2022 this report is lodged against the applicant. One of the accusation made against the applicant is that he had subjected her to unnatural sexual intercourse. However, there is no medical record in support of the said contention. Furthermore, incident of unnatural sex alleged to be happened in December, 2021 and report is lodged in August, 2022, therefore, there is delay of 8 months in lodging the FIR. There is no recovery of Stridhan against the applicant. There is nothing placed on record to show that custodial interrogation of the applicant is warranted, therefore, it would be appropriate to enlarge the applicant on pre arrest bail. There is an apprehension in the mind of the

prosecution that if the applicant released on bail, he will pressurise the complainant and will destroy the prosecution evidence, but the said care can be taken by imposing necessary conditions. In view of aforesaid reasons, I proceed to pass following order.

ORDER

1. Anticipatory Bail Application No.1927/2022 is hereby allowed.
2. In the event of arrest of the applicant-Mohd. Asif Hanif Quresh, he be released on bail on executing P.R. Bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with one or two sureties of like sum in connection with Crime No.417/2022 registered at Jogeshwari Police Station for the offence punishable under Sections 498A, 377, 323, 504, 506 r/w. 34 of the Indian Penal Code, on following conditions :
 - i) He shall attend the Jogeshwari Police Station on every Sunday in between 10.00 am to 01.00 pm till filing of charge-sheet and to co-operate the IO in investigation.
 - ii) He shall not tamper with prosecution evidence.
 - iii) He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade them from disclosing such a fact to the court or to any police officer.
 - iv) He is directed to furnish his local & native address and his contact numbers to Jogeshwari Police Station.
 - v) Inform to the Jogeshwari Police Station.
 - vi) If any condition is violated by the applicant, his bail will liable for cancellation.
3. Bail Application No.1927/2022 stands disposed of accordingly.

Dictated and pronounced in open Court.

(M.I. LOKWANI)

Additional Sessions Judge,
Borivali Div., Dindoshi, Mumbai

Dt. 20/12/2022

Dictated on : 20/12/2022

Transcribed on : 20/12/2022

Checked & Signed by HHJ on : 20/12/2022

CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.” UPLOAD DATE AND TIME 23.12.2022 AT 12:30 P.M. NAME OF STENOGRAPHER PRASAD S. TARE	
Name of Judge (with Court room no.)	HHJ Shri M.I. Lokwani, City Civil & Sessions Court, Borivali Div., Dindoshi. (C.R.No.10)
Date of Pronouncement of JUDGEMENT/ORDER	20/12/2022
JUDGEMENT/ORDER signed by P.O. on	21/12/2022
JUDGEMENT/ORDER uploaded on	23/12/2022