

ABA 1883/2022

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ORDER

MHCC050062692022



**IN THE COURT OF SESSIONS, AT DINDOSHI  
(BORIVALI DIVISION), GOREGAON, MUMBAI  
ANTICIPATORY BAIL APPLICATION NO. 1883 OF 2022  
(C. R. NO. 801 OF 2022)  
(CNR NO.MHCC05-006269-2022)**

**1. Payal Shiv Kumar Singh**

Age – 43 years, Occ : Business,  
Hindu, Indian Inhabitant,  
Residing at : Flat No. 401, H- Wing, Veena Surshyam  
Complex, Vasai (East), Palghar – 401208.

**2. Sandhya Mohan Rathod**

Age – 34 years, Occ : Service,  
Hindu, Indian Inhabitant,  
Residing at : DMB 113, Tulsiwadi,  
Approach Road, Mumbai – 400 034 ... Applicants/Accused

V/s.

**The State of Maharashtra**

(Through Dahisar Police Station, Mumbai) ....Respondent

Ld. Advocate Mr. Ganesh Upadhyay for the Applicants/Accused.

Ld. APP Mr. Imran Shaikh for The State.

**CORAM: H.H.THE ADDITIONAL SESSIONS JUDGE  
SHRI. SHRIKANT Y. BHOSALE  
(C.R.NO.13)**

**DATE : 13<sup>TH</sup> DECEMBER, 2022**

**ORDER**

In anticipation of arrest in C. R. No.801/2022 registered

with Dahisar Police Station for the offences punishable under sections 170, 506, 507 of IPC, the applicants have made this application for pre-arrest bail.

2. Prosecution vide say Exh. 2 resisted the application.

3. Heard Ld. Advocate Mr. Ganesh Upadhyay for the applicant and Ld. APP Mr. Imran Shaikh for The State. The investigation officer is also present alongwith the investigation papers and she also argued with a request to reject the application.

4. The case of the prosecution appears to be that the informant and applicant no. 1 Payal Singh are well acquainted with each other. Both are doing the business of Nail Art. According to the informant she had joined the class of applicant no. 1, but she left the class. On 15.04.2022 the informant received phone call from unknown phone no. 7841062563. The caller introduced herself as officer of Andheri police station and told the informant that Payal Singh i.e. applicant no. 1 has lodged the complaint of bullying against the present informant. The caller asked the informant to make adjustment, otherwise, the action would be taken against her. The informant on true caller ID verified the phone number and found that it is registered in the name of Sandhya Mishra i.e. applicant no. 2. She therefore, lodged the first information.

5. According to Ld. Advocate for the applicant, applicant no. 1 had made advertisement of her business on Instagram and the informant on 05.04.2022 made derogatory comment on the said advertisement, hence, applicant no. 1 had approached the police station, but her complaint was not recorded. To counter the would be action by the applicant no. 1, the informant has filed the false case

against the applicants. According to the applicants they are ready to abide any condition if imposed by the Court. It is also pointed out that the offence under section 170 is cognizable and punishable upto two years only. The offence under section 506 is bailable offence. Thus, according to applicant there is no need of custodial interrogation and hence, anticipatory bail may be granted.

6. As against this, Ld. APP submit that though the punishment of offence under section 170 is upto two years, it is a serious matter, since the applicants have represented themselves as a police officer. If anticipatory bail is granted to such person, it would be nothing but encouraging them. So far as delay is concerned, investigation officer submit that at the time of lodging the first information only mobile number was available and therefore, the call record and details of the subscriber were required to be collected and then only name of applicant no. 2 i.e. the subscriber of the above phone number is revealed. The investigation officer further states that as per the call record on 15.04.2022, three calls were made from the phone number of applicant no. 2 to the informant. Not only this, but the investigation officer has confirmed the fact by listening the recording of the call. She therefore submits that the applicants are not innocent and custodial interrogation is necessary.

7. On behalf of the applicant reliance is placed on the decision of The Hon'ble Bombay High Court in the case of *Iran Khan S/o Kasam Khan Pathan V/s. The State of Maharashtra, in Criminal Revision Application No. 11 of 2007, dated 28.03.2007*, wherein according to applicants the Hon'ble Bombay High Court granted anticipatory bail in similar type of case.

8. After having regards to the arguments and considering the factual aspect of the case, firstly it is seen that there is concrete evidence available with the investigation officer that on relevant date and time three calls were made from the mobile phone of applicant no. 2 to the informant. Not only this, but the investigation officer has verified the conversation by listening the call recording of the said phone calls. Thus, *prima facie* material of involvement of the present applicant in the crime is available with the prosecution.

9. It is true that the offence under section 170 is punishable only for two years, however, it is a serious to pretend as police officer for threatening the informant. The telephone devices used for making call to the informant needs to be seized from applicant no. 2. At the same time confrontation in between the applicants is necessary for better investigation and that can be done only by custodial interrogation.

10. So far as the cited decision between *Iran Khan S/o Kasam Khan Pathan V/s. The State of Maharashtra (cited supra)*, is concerned, it is seen that the Revision Application before the Hon'ble High Court was made against order of refusing to discharge the accused in that case. The Hon'ble High Court observed that though telephone record was available, still material regarding the conversation during the telephone calls was not available. As such, the available material was not sufficient to implicate the accused in that case. However, in the present case investigation officer is having record of conversation during the telephone call. Apart from the said, the matter is under investigation and not for framing charge, thus, there is likelihood of collection of more evidence. In such circumstances, cited decision can not be said to be applicable to the present case.

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**ORDER**

11. Considering the above discussion, the Court is of the view that no case for anticipatory bail is made out. Hence, application needs to be rejected. Hence, the order.

**ORDER**

**Anticipatory Bail Application No. 1883 of 2022 stands rejected and disposed of.**

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

**Date: 13.12.2022**

**(Shrikant Y. Bhosale)**

The Addl. Sessions Judge  
City Civil & Sessions Court,  
Borivali Division, Dindoshi.

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|------------------------|--------------|
| Dictated on            | : 13.12.2022 |
| Transcribed on         | : 13.12.2022 |
| Checked & corrected on | : 15.12.2022 |
| Signed on              | : 15.12.2022 |
| Sent to Dept. on       | :            |

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ORDER

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

Date : 17/12/2022

Time : 3.19 P.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.13)**

Date of Pronouncement of  
JUDGMENT/ORDER

13.12.2022

JUDGMENT/ORDER signed by P.O. on

15.12.2022

JUDGMENT/ORDER uploaded on

17.12.2022