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MHCC050066632022



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

ANTICIPATORY BAIL APPLICATION NO.1998 OF 2022
(CNR NO.MHCC05-006663-2022)

Pradip Ramnaresh Yadav,
Age: 26 years; Occ: Service,
Having address at Ganesh Krupa Chawl,
Shankar Pada-2, New Link Road,
Dahanukarwadi, Kandivali (W),
Mumbai - 400 067.

...Applicant/Accused

V/s.

State of Maharashtra
(at the instance of Kandivali
police station).

....Respondents

Ld. Advocate Deepak Bansode for the Applicants/ Accused.
Ld.APP Smt.Purnima Chauhan for the State.

CORAM: H.H.THE ADDITIONAL SESSIONS JUDGE
SHRI N.L.KALE
(C.R.NO.14)

DATE : 28th December, 2022.

This is an application u/s.438 of the Criminal Procedure Code

1973 filed by the applicant for seeking Anticipatory Bail in C.R.No.1358/2022, registered at Kandivali police station, for the offences punishable under sections 504, 506(2) & 509 r/w.34 of the Indian Penal Code, 1860.

Brief facts which gives rise to file the present application are as under: -

2. It is alleged that, the complainant is residing at the given address alongwith her husband and other family members. Her husband is a taxi driver. On 20/11/2022, at about 11: 30 p.m. complainant's husband was standing near to their building. At that time, the present applicant came there and demanded an amount to complainant's husband for drinking alcohol. Complainant's husband denied to give an amount to the applicant. Hence, Dashrath Sawant and Dinesh who are the friends of the applicant gave abuses to the complainant's husband and they also caused beating to him. Hence, a report was lodged against the applicant and his above friends at Kandivali police station. The applicant and his friends used to give threatenings to complainant's husband, through mobile phone to kill him. Hence, complainant's husband not came to his home for one day.

3. On 22/11/2022 at about 11:30 p.m. the complainant was proceeded to house of her mother at Shiv Shrushti Building. At that time, the applicant and Dashrath Sawant were sitting near to complainant's building. After seeing the complainant, they started giving abuses to her in a filthy language and gave threatenings to throw an acid on her face. Then complainant informed this incident to her mother and asked helped by

making a call to police control. After an arrival of police on the spot, the applicant and Dinesh ran away from the spot. Police took Dashrath Sawant with them at police station. Thereafter, the complainant lodged report against the present applicant and Dashrath Sawant.

4. On the basis of her said report, police registered this crime and started investigation. Arrested co-accused namely Dashrath Sawant produced before Ld. M.M.Court on 23/11/2022. He remanded to police custody till 24/11/2022. Then, said arrested co-accused remanded to Magistrate custody.

5. Now, by filing this application, the applicant is seeking pre-arrest bail for him. He alleged that, he has not committed any offence as alleged in a complaint. He further alleged that, nothing is to be seized or recovered from him and hence, his physical presence with police is not necessary. According to him, co-accused Dashrath is released on bail by Ld. M.M.Court. He prays to allow the prayer by imposing conditions upon him.

6. This application is strongly resisted by prosecution by filing reply vide Exh.2. According to prosecution, this accused used filthy language with the complainant. Prosecution further alleged that, for arrested co-accused Ld. M.M.Court had granted one day police custody. Prosecution prays to reject the prayer.

7. Ld. advocate Shri Deepak Bansode appearing for the applicant submitted that, except an offence U/s.506(2) of IPC other

offences alleged are bailable. He relied upon remand reports of arrested co-accused and submitted that, nothing is to be recovered from the applicant and hence, his physical presence in any custody is not necessary. He also relied upon bail order of co-accused passed by Ld. M.M.Court. He submitted further that, the applicant is permanent resident of Mumbai and ready to co-operate in investigation.

8. Ld. APP Smt.Chauhan submitted that, for arrested co-accused one day police custody was granted by Ld. M.M.Court to facilitate the investigation. She submitted further that, in FIR specific role of the applicant is stated by the complainant.

9. It is a fact that, one of the co-accused in this crime is released on bail by Ld. M.M.Court. But, this fact is not sufficient to allow the prayer. Because, said co-accused is released on regular bail and after granting one day police custody to him. Moreover, on perusal of FIR it appears that, the complainant has stated specific words used by the accused to her. A role of the present applicant in the commission of crime is clearly stated by complainant, while lodging a complaint. No doubt, nothing is to be recovered or seized from the applicant. But, in a complaint, there are specific and clear allegations that, the applicant had given threats to complainant to throw an acid on her face. Hence, it is to be investigated as to whether, the applicant had made any preparation to that effect or else? For that purpose, an interrogation of the applicant in police custody is necessary.

10. Record further indicates that, arrested accused Dashrath was

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remanded to police custody for one day. Thus, for arrested co-accused, an opportunity had been given to the I.O. to interrogate him in police custody. If, this accused will be released on pre-arrest bail then, the I.O. will not get the said opportunity in regard to the present applicant.

11. Considering all the above aspects and specific allegations made against the applicant in a complaint, I am of the view that, the applicant has not made out a case to use discretion in his favour. In a result, this application deserves to be rejected. Hence, I proceeded to pass following order:

ORDER

Anticipatory Bail Application No.1998 of 2022 is rejected and disposed off accordingly.

(Order pronounced in open Court)

Date: 28.12.2022

**(N.L.KALE)
THE ADDL.SESIONS JUDGE
CITY CIVIL & SESSIONS COURT,
BORIVALI DIVISION, DINDOSHI**

Order direct dictated on computer on : 28.12.2022
Checked, corrected & Signed on : 28.12.2022

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

UPLOAD DATE

Ms. S.S.Chudji

AND TIME : 28/12/2022 at 02.40 P.M.

NAME OF STENOGRAPHER

Name of the Judge (with Court Room No.)	HHJ Shri N. L. Kale (Court Room No.14)
Date of Pronouncement of Judgment/Order	28/12/2022
Judgment/Order signed by P.O. on	28/12/2022
Judgment/Order uploaded on	28/12/2022

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