

MHCC050065322022



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

ANTICIPATORY BAIL APPLICATION NO. 1955 OF 2022

IN

(C.R. No. 2234 of 2022 of Sakinaka Police Station, Mumbai)

- 1) **Mr. Suhel s/o. Manawwar Ali Khan,**
Age : 31 yrs., Occupation : service,
- 2) **Mrs. Nuren Bano Mannawwar Ali Khan,**
Age : 42 yrs., Occupation : Housewife,
- 3) **Mr. Munawwar Ali Khan,**
Age : 46 yrs., Occupation : service,
- 4) **Mrs. Shaheen Khtoon Manawwar Ali Khan,**
Age : 20 yrs., Occupation : Housewife,
- 5) **Mr. Sufiyan Munawwar Ali Khan,**
Age : 21 yrs., Occupation : Education,
- 6) **Mr. Shehbaz @ Arbaz Munawwar Ali Khan,**
Age : 19 yrs., Occupation : Education,

All R/o : permanently at Turkauliya,
Wasachak, Rahmatullah, Siddarth Nagar,
Uttar Pradesh : 272 195
and All presently R/at : Plot No. 10, R. No. 1,
Road No. 9, Line No. D, Baiganwadi, Govandi,
Mumbai 400 043

..Applicants

Vs

1) The State of Maharashtra

(through Public Prosecutor)

2) The Senior Inspector of Police,

(through Sakinaka Police Station)

..Respondents

Ld. Adv. Usmani, for the applicants.

Ld. APP P.K. Mahajan, for the State.

Ld. Adv. Aditya Jadhav, for the intervenor.

CORAM : H.H. THE ADDITIONAL SESSIONS JUDGE

R.M. MISHRA

(C.R.NO.4)

DATE : 06th January, 2023

ORAL ORDER

This is an application for grant of anticipatory bail under section 438 of Cr.P.C., in connection with C.R. No. 2234 of 2022, registered with Sakinaka Police Station for the offences punishable under sections 498-A, 377, 406, 495, 504, 506 (2), 323 read with section 34 of the Indian Penal Code.

2 On 16/11/2022, at the instance of the victim/complainant aforesaid offence came to be registered.

As mentioned in the FIR, on 14/03/2022 marriage between the complainant and the applicant no.1 was solemnized as per the customs in their community. In the marriage, several golden ornaments and cash of Rs. 5,00,000/- was given as dowry. After the complainant came to reside in her matrimonial house, the applicant no.1 performed unnatural intercourse with the complainant by showing porn video

against her will. Thereafter, whenever the complainant used to refuse his demand of performing unnatural intercourse, the applicant no.1 used to abuse her. Other applicants being her sister-in-law, brother-in-law and mother-in-law used to taunt her on one or other cause. The complainant's husband and mother-in-law used to cause beating to her and were not providing food to the complainant. The complainant's father had given her Rs. 5,00,000/- which was also taken away by the applicant no.1 without her consent. On enquiry by the complainant, the applicant no.1 and his parents caused beating by abusing her. On 16/05/2022, the complainant was not feeling well but the applicant no.1 refused to take her for treatment towards doctor. Thereafter, the applicant no. 1 made a phone call to the father of the complainant by asking him to take back the complainant. After sometime, the complainant's father came there and took the complainant to Elizabeth Hospital, Walkeshwar for treatment. At that time, none of the applicants came there to see the complainant. After medical treatment of the complainant, she was brought by her father at her parental home. The complainant repeatedly made phone calls to the applicant no.1 to take her back but he used to ask her to bring Rs. 5,00,000/- if she wants to reside in her matrimonial home. The applicant no.1 also threatened to kill by setting her ablaze on fire, if she came in her matrimonial home. The complainant thereafter, came to know that the applicant no.1 has performed second marriage with another girl. The complainant, therefore, lodged the report in the police station.

3 By this application, the applicants have contended that the complainant resided at her matrimonial house only for 18 days. The applicants also came to know that the complainant has concealed the fact that this is her second marriage. At the time of marriage with the applicant no.1, the complainant was divorcee. The applicants are permanent residents of Uttar Pradesh. They came to Mumbai for the marriage and taken rental premises at Baiganwadi. While residing in her matrimonial house, the complainant used to behave rudely. The complainant never talked with compassion and kindness with any of the applicants. She used to raise dispute on petty issues. The complainant has left her matrimonial house without any just cause and she was not ready to co-habit with the applicant no.1. Since the inception of marriage, there is not a single quarrel or fight happened between the complainant and the applicants. The applicants have been falsely implicated by the complainant. Entire allegations levelled against them are false. The applicants are ready to abide the conditions imposed by the Court and undertake to co-operate in investigation in case of their release on anticipatory bail. The applicants, therefore, prayed for their release on anticipatory bail.

4 The prosecution vide say Exh. 05 resisted the application mainly on the ground that the offence is serious one. The applicants have committed physical and mental ill-treatment with the complainant. There is possibility of pressurizing the complainant and the witnesses and absconding of the applicants if they are released on anticipatory bail.

5 The complainant has also resisted the application by filing intervenor application Exh. 03.

6 I heard the submissions of the learned advocate for the applicants, the intervenor and learned APP at length.

7 I have also gone through the case diary. After careful consideration of the entire facts and circumstances, it reveals that the marriage between the complainant and the applicant no.1 took place on 14/03/2022. Thereafter on 16/05/2022, the complainant was taken away at her parents home by her father on the ground that she was not provided any medical treatment by the applicants. On being informed to her father, she was taken to the hospital and thereafter, the complainant is residing in her parental home. In so far as the allegations of unnatural intercourse by the applicant no.1 is concerned, it reveals that though the complainant had informed this fact to her mother, still she was residing in her matrimonial home. The complainant has also stated that after she was taken by her father at her parental house, she was repeatedly requesting the applicant no.1 on phone call to take her back in her matrimonial house. These circumstances indicate that even if there are allegations of mental and physical ill-treatment, the complainant was still willing to co-habit with her husband in her matrimonial home along with other co-accused.

8 Though it is alleged that in the marriage, cash amount of Rs. 5,00,000/- and golden ornaments i.e. total dowry of Rs. 12,40,000/-

was given, there is nothing to show that any such golden ornaments and cash amount were given in the marriage. Even assuming that any such articles are given in the marriage, neither it is stated in the say of the prosecution that any such recovery is to be made nor this can be the ground for denying anticipatory bail. On the other hand, it reveals that counter allegations are levelled by both the parties against each other.

9 The complainant is alleging that she was ill-treated by her husband and parents-in-law whereas the applicants are alleging that the complainant has suppressed her earlier marriage and she was divorce by her first husband. In fact, nothing is brought on record to show earlier criminal antecedent of the applicants. It also reveals that investigation agency had visited at the matrimonial house of the complainant and drawn the spot panchnama by making seizure of some household articles in the presence of panchas. In spite of the fact that severe allegations are levelled, there is inordinate delay in lodging the report without there being any explanation on the part of the complainant. Considering all these circumstances, in my view, purpose will be served, if the applicants are granted anticipatory bail by imposing certain conditions. In this view of the matter, following order is passed :

ORDER

- 1) Application under section 438 of the Code of Criminal Procedure for the grant of anticipatory bail is allowed.

2) In the event of arrest of the applicants 1) **Suhel s/o. Manawwar Ali Khan**, 2) **Mrs. Nuren Bano Mannawwar Ali Khan**, 3) **Munawwar Ali Khan**,4) **Mrs. Shaheen Khtoon Manawwar Ali Khan**, 5) **Sufiyan Munawwar Ali Khan** and 6) **Shehbaz @ Arbaz Munawwar Ali Khan**, in connection with C. R. No. 2234 of 2022, registered with Sakinaka Police Station for the offences punishable under sections 498-A, 377, 406, 495, 504, 506 (2), 323 read with section 34 of the Indian Penal Code, they be released on bail, on their executing PR Bond of Rs. 15,000/- each (Rupees Fifteen Thousand Only), with one solvent surety in the like amount, on the following conditions-

- a) The applicant no.1 shall attend police station every Sunday between 10.00 hours to 12.00 hours until investigation is completed.
- b) The applicants shall also co-operate the Investigating Officer as and when called upon until filing the charge-sheet.
- c) The applicants shall not attempt to threat or pressurize the complainant or other prosecution witnesses in any manner.
- d) The applicants are directed to furnish their existing residence proof as well as proof of residence of their native place in order to avoid the possibility of their absconding.

- 3) Concerned Police Station be informed accordingly.
 4) Anticipatory Bail Application No. 1955 of 2022 is hereby disposed of accordingly.

sd/-

(R.M. Mishra)

Additional Sessions Judge,
Borivali Div., Dindoshi, Mumbai

Dt. 06/01/2023

Dictated on : 06/01/2023
 Transcribed on : 06/01/2023
 Checked on : 06/01/2023
 Signed on : 06/01/2023

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

06/01/2023 at 5.28 p.m.
 UPLOAD DATE AND TIME

Mrs. S.B. Vichare
 NAME OF STENOGRAPHER

Name of Judge (with Court room no.)	HHJ R.M. Mishra, City Civil & Sessions Court, Borivali Div., Dindoshi, Mumbai (C.R.No. 04)
Date of Pronouncement of JUDGEMENT/ORDER	06/01/2023
JUDGEMENT/ORDER signed by P.O. on	06/01/2023
JUDGEMENT/ORDER uploaded on	06/01/2023