



IN THE COURT OF SPECIAL JUDGE UNDER THE PROTECTION OF
CHILDREN FROM SEXUAL OFFENCES ACT, 2012 BORIVALI
DIVISION, DINDOSHI, MUMBAI.

ANTICIPATORY BAIL APPLICATION 1946 OF 2022

(CNR NO.: MHCC05-006495-2022)

Samarbahaddur Mahabal Yadav
R/at. Krushna Welfare Society,
Durga Nagar, Kranti Nagar Road,
Akruli, Kandivali E. Mumbai 101

...Applicant

V/s.

The State of Maharashtra,
(At the instance of Kurar
Police Station vide C.R.No.94/10)

...Respondent/State.

Appearance:-

Shri. Kamlesh Gujar, Advocate for the Applicant.
Shri. Ambekar, APP for the State/respondent.

**CORAM : HER HONOUR ADDL. SESSIONS JUDGE
SMT.S.M.TAKALIKAR, (C.R.NO.12)**

DATE : 19.01.2023

ORDER

Present application is filed by the accused/applicant under Section 438 of Code of Criminal Procedure for Anticipatory bail in connection with C.R.No 94 of 2010 registered with Kurar Police Station for offences punishable under Section 307 r/w. 34 of the Indian Penal Code.

Facts in short of present application are as follows :

2. That the complainant is residing on the given address. It is stated that on 16/04/2010 at 7.30 pm complainant was going to his house. At that time 4 persons came in front of him. One Mahesh assaulted him by knife. Those person assaulted him by kicks and blows. He was taken to the hospital. Thereafter he lodge complaint against 4 accused. On the basis of said complaint above mentioned crime has been registered against the accused.

3. Applicant in his application stated that he is innocent, has not committed any offence. He is only earning member of the family. He has not assaulted the complainant. He would obey all the terms and conditions that will be imposed on him. Hence prayed that application be allowed.

4. Prosecution has filed say below Exh.3 stating that remaining 2 accused are yet to be arrested. There are chances of absconding, chances of threatening the witnesses and also chances of causing injury to the complainant. Hence prayed that application be rejected.

5. Ld. Advocate for the applicant matter is of 2010. Accused was in jail. He came to know about this case after release from jail. He has filed this application. He invited my attention towards the judgment delivered by this court in the case filed against main accused and submitted that there is no recovery and discovery from this accused. Hence prayed that application be allowed.

6. Ld. APP submitted that since 2010 this accused was absconding. There are chances of absconding. Hence prayed that

application be rejected.

7. Perused application, say filed. Also perused documents filed alongwith it.

8. It appears that Session case 65 of 2011 was filed against co-accused Mahesh Pal. That case has been decided. In that charge-sheet name of this accused has been shown in absconding column. That means investigation has been completed. Charge-sheet has been already submitted. Upon perusal of FIR the allegations against this accused applicant is that he beat the informant by kicks and blows. That much only are the allegations. Main accused has been acquitted from this case. There is no recovery and discovery from this accused. The accused is permanent resident of Mumbai. Objection of the I.O. can be taken care of by imposing stringent conditions of attendance to the police station. Hence accused has made out just and reasonable ground for release on anticipatory bail. Therefore his application deserves to be allowed and I pass following order:

ORDER:

1. Anticipatory Bail Application No.1946/2022 is hereby allowed.
2. In the event of arrest, the applicant/accused, **Samarbahaddur Mahabal Yadav**, he be released on anticipatory bail on executing P.R. Bond of Rs.30,000/- (Rupees Thirty Thousand only) with One or two solvent surety in the like amount in C.R.No 94 of 2010 registered with **Kurar** Police Station for offences punishable under Section 307 r/w. 34 of the Indian Penal Code, on the following terms and conditions :-
 - a) He shall attend the **Kurar** Police Station once in 15 days till filing of charge-sheet.

- b) He shall co-operate the police in the investigation.
 - c) He shall not himself or through any other person contact the victim/complainant.
 - d) He shall not commit similar type of offences for which he is the accused.
 - e) He shall not directly or indirectly make any inducement, threat, or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any police officer.
 - i) On violation of any above conditions, anticipatory bail shall stand cancelled without intimation.
 - j) He shall handover the mobile to the police as early as possible.
- 3) Anticipatory Bail Application No.1946/2022 is hereby disposed off accordingly.

(S. M. TAKALIKAR)
Special Judge, under the POCSO Act
Borivali (Div), Dindoshi,
Goregaon, Mumbai.

Date : 19.01.2023

Dictated on : 19.01.2023
Transcribed on : 23.01.2023
Date of sign : 25.01.2023

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

25.01.2023, 5.30 pm
UPLOAD DATE AND TIME

Mrs. Revati V. Kadam
NAME OF STENOGRAPHER

Name of the Judge (with Court Room No.)	HHJ Smt. S. M. TAKALIKAR ,(C.R.No.12) Addl. Judge.,City Civil & Sessions Court, Dindoshi
Date of pronouncement of /Order	19.01.2023
Order signed by P.O. on	25.01.2023
order uploaded on	25.01.2023