

MHCC050068392022



**IN THE COURT OF SESSIONS, AT DINDOSHI
(BORIVALI DIVISION), GOREGAON, MUMBAI
ANTICIPATORY BAIL APPLICATION NO. 2050 OF 2022
C. R. No. 1188 of 2022
(CNR NO.MHCC050068392022)**

1. Santosh Ramchandra Shelar,

Age – 41 years, Occ : Service,
Hindu, Adult, Indian Inhabitant,
Residence:- Room No.351, H-Ward,
Mahanagar Palika Vasahat, Nehru Nagar,
Opp. N.N.P.Gate No.1/2,Dindoshi,
Goregaon (East), Mumbai-400 065.

2. Satish Vithal Pujari,

Age – 59 years, Occ : Business,
Hindu, Adult, Indian Inhabitant,
Residence- Room No.119, H-Ward, B.M.C.
Colony, Gen. Arun Kumar Vaidya Marg,
Opp N.N.Parishad, Gate No.2, Santosh,
Nagar, Goregaon(East), Mumbai-400 065.

3. Subhashchandra Jangbahadur Yadav,

Age – 42 years, Occ : Business,
Hindu, Adult, Indian Inhabitant,
Residence- Ward-H/8, Room No.30,
B.M.C. Colony, Dindoshi, Gen. Arun Kumar Vaidya Marg,
Near Joyti Hotel, Santosh Nagar,
Goregaon(East), Aarey Milk Colony,
Mumbai – 400 065.

...Applicants/Accused

V/s.

The State of Maharashtra

(At the instance of Sr. Inspector of Police
Dindoshi Police Station, Mumbai
C.R.No. 1188/2022)

....Respondent

ABA 2050/2022

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ORDER

Ld. Advocate Mr. Sunny A. Waskar for the Applicants/Accused.
Ld. APP Mr. I. K. Shaikh for The State.

**CORAM: H.H.THE ADDITIONAL SESSIONS JUDGE
SHRI. SHRIKANT Y. BHOSALE
(C.R.NO.13)
DATE : 2nd JANUARY, 2023**

O R D E R

This is an application filed by applicants Under section 438 of Criminal Procedure Code in connection with C. R. No.1188/2022 registered with Dindoshi Police Station, for the offences punishable under sections 354, 506 & 509 r/w 34 of Indian Penal Code.

2. Prosecution vide say Exh. 4 resisted the application.
3. Heard Ld. Advocate Mr. Sunny Waskar for the applicants and Ld. APP Mr. I.K.Shaikh for The State.
4. The case of the prosecution in short is that, on the upper floor of the informant flat, there is flat of applicant -Santosh Shelar. Applicant Santosh had commenced construction/repair of his flat. Some of the angles of the said construction were coming over the house of the informant and therefore, she had requested applicant Santosh to do the needful. However, there was dispute between them. On the above background, on 14/12/2022, there was quarrel in between the informant and applicant Santosh Shelar. Two unknown persons were there with applicant Santosh Shelar. Applicant Santosh Shelar started abusing the informant. Hearing the sound of quarrel, mother of the informant came out of the house, however, applicant Santosh also abused her. Thereafter, applicant Santosh caught the hair of the informant and pulled her. He also allegedly touched the breast of the informant. The unknown person i.e. applicant Nos. 2 and 3 also abused

the informant. The quarrel was separated by persons who had gathered there. The informant then went to police station and lodged the first information.

5. According to advocate for the applicants, the allegations against the applicants are false. The applicants are innocent. There is enmity between the informant and applicant No.1, therefore, false case is lodged. It is further contention that considering the nature of allegation, there appears no need of custodial interrogation. Moreover, the Investigation Officer had issued notice to the applicants Under section 41(A) of Cr.P.C. and the applicants are ready to co-operate the Investigation agency. It is therefore, requested that anticipatory bail be granted.

6. As against this, prosecution filed say Exh.4 and resisted the application. According to Ld. APP the investigation Officer want to trace out the unknown persons and therefore, custodial interrogation is necessary. It is next contention that, the applicants have not co-operated the Investigation Officer inspite they were served by notice Under Section 41(A) of Cr. P.C.. He, therefore, submits that application be rejected.

7. After going through the material on record, it is seen that the Investigation Officer has issued notice Under section 41(A) of Cr. P.C. to all the applicants, it means that according to Investigation Officer, the unknown persons are applicants No. 2 & 3. It is therefore, to except that the Investigation Officer still want to trace out unknown persons. It is true that, the offence against the woman needs to be taken seriously. However, question is whether there is any of custodial interrogation? The facts and circumstance clearly suggest that, the

investigation can be completed without the custodial interrogation. Apart from the said, there appears enmity between the parties on this background. It is just and proper to grant anticipatory bail to the applicants by putting certain conditions. Hence, the order.

ORDER

1. Anticipatory Bail Application No. 2050 of 2022 stands conditionally allowed.
2. In the event of arrest, of Applicant/accused Nos. 1 to 3 respectively **Santosh Ramchandra Shelar, Satish Vithal Pujari, and Subhashchandra Jangbahadur Yadav**, in aforesaid C. R. No.1188/2022 for the offence punishable under sections 354, 506 & 509 r/w 34 of The Indian Penal Code, 1860, registered with Dindoshi Police Station, Mumbai, they be released on their executing P. R. Bond of Rs. 15,000/- (Rupees Fifteen Thousand Only) each and on furnishing one surety of like amount and on accepting and complying following terms and conditions -
 - a) They shall not tamper with prosecution witnesses in any way.
 - b) They shall produce their respective Identity Card, address proof and furnish their mobile number as well as land-line number with bail papers.
 - c) They shall attend concerned police station on 05.01.2023, 06.01.2023 & 07.01.2023 between 10.00 a.m. to 2.00 p.m. and thereafter, if required by the investigation officer by his order in writing.
 - d) They shall attend the trial regularly.
 - e) The observation made in this order are restricted to this bail application only and the Trial Court shall not get influence by the

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ORDER

observation of this Court.

3. Anticipatory Bail Application No. 2050 of 2022 stands disposed of.

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

Date: 02.01.2023

(Shrikant Y. Bhosale)
The Addl. Sessions Judge
City Civil & Sessions Court,
Borivali Division, Dindoshi.

Dictated on : **02.01.2023**
Transcribed on : **05.01.2023**
Checked & corrected on : **09.01.2023**
Signed on : **09.01.2023**
Sent to Dept. on :

ABA 2050/2022

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ORDER

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

Date : 11.01.2023

Time : 05.58 P.M.

UPLOAD DATE AND TIME

Ms. S.S.Chudji

(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**

02.01.2023

JUDGMENT/ORDER signed by P.O. on

09.01.2023

JUDGMENT/ORDER uploaded on

11.01.2023