

MHCC050063362022



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

ANTICIPATORY BAIL APPLICATION NO.1904 OF 2022
(CNR NO.MHCC05-006336/2022)

1. **Mrs.Savitridevi Ramnath Chauhan,**
Aged: 58 years, Occ: Housewife.
Adult, Indian Inhabitant,
Residing at Gandhi Nagar, M.G.Road,
Lalji Pada, Sanjay Nagar, Kandivali (W),
Mumbai - 400 067.

2. **Mr. Ashok Ramnath Chauhan,**
Aged:32 years, Adult,
Indian Inhabitant, residing at
Durga Mandir Road, Sanjay Nagar,
Wadilal Gosaliya Road, Lalji Pada,
Near Sanjay Nagar Medical,
Kandivali (W), Mumbai - 400 067.

3. **Mrs.Shikha Ashok Chauhan,**
Aged:24 years, Adult,
Indian Inhabitant, residing at
Durga Mandir Road, Sanjay Nagar,
Wadilal Gosaliya Road, Lalji Pada,
Near Sanjay Nagar Medical,
Kandivali (W), Mumbai - 400 067.

...Applicants/Accused

V/s.

State of Maharashtra
(at the instance of Kandivali

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police station).

....Respondents

Ld. Advocate Shri Navin Shrivastava for the Applicants/ Accused.
Ld.APP Shri Panchpohar for the State.
Ld. Advocate Shri Rakesh Mishra for Intervenor.

**CORAM: H.H.THE ADDITIONAL SESSIONS JUDGE
SHRI N.L.KALE
(C.R.NO.14)
DATE : 12th January, 2023.**

ORDER

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.0674/2022, registered at Kandivali police station, for the offences punishable under sections 498(A), 504, 506 323 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, Complainant Savita Chauhan is residing at the given address alongwith her parents, brother etc. Her marriage was solemnized on 24/04/2012, with Santosh Chauhan. After marriage till the year 2018, she resided with her in-laws. She alleged further that, there are 3 rooms owned by her in laws. On one room, her husband Santosh was doing a business imitation jewlery. After the marriage, she came to know that, her husband Santosh is having a habit of drinking alcohol. He never used to give any amount for house expenses etc. Hence, in laws of the complainant always illtreating to her.

3. In the year 2015, her brother-in law namely Ashok got

married with Shikha, then she also starting residing with them. Complainant alleged that, a wife of her brother-in-law were also caused illtreatment to her. In the year 2016, complainant gave birth to male child on that account her mother-in-law illtreated to her. For many times her in-laws kept complainant starving.

4. The room in which the complainant's husband doing a business was in the name of complainant's husband itself. Her mother-in-law asked them to transfer the said room to her name as the complainant's husband having habit of drinking alcohol. She also used to demand of Rs.5,00,000/- to the complainant. When, the complainant denied to bring the said amount from her parents, her in-laws started more cruelty towards her. They expelled the complainant and her husband from their house. At that time, all the gold ornaments of the complainant such as golden chain, rings, ear rings etc., were in possession of her in-laws and her mother-in-law never returned those ornaments to the complainant. Her in-laws gave threatenings to the complainant that, they will not allow them to reside in the house until, she bring Rs.5,00,000/- from her parents. Since the year 2018 - 2022, she herself and her father tried to convenience her in-laws. But, they never paid any heed towards them.

5. She alleged further that, in January 2022, she came to know that, her husband is admitted in Shatabdi Hospital and he is suffering from Cancer of liver. On 28/01/2022, her husband expired while taking medical treatment for his illness. When, the complainant had gone for last rites of her husband, at that time, she learnt that, her in-laws illegally

transferred a room of her husband in the name of her sister-in-law. Hence, with the complainant asked about the same to the applicants and her sister-in-law, they all gave abuses to her, caused beatings to her and expelled her from their house. Therefore, she again went to the house of her parents and started residing with them. Thereafter, she lodged a complaint against her in-laws.

6. On the basis of her said complaint, police registered a crime against these applicants and started investigation. By filing this application, the applicants who are the in-laws of the complainant seeking pre-arrest bail to them.

7. The applicants alleged that, they have not committed any offence as alleged in a complaint and they have been falsely implicated in this crime. They specifically alleged that, applicant Nos.2 and 3 never resisted that, the complainant and they were residing separately. According to the applicants, the complainant was having extra marital affairs and when, her husband came to know about the same, he went in depression and started consuming liquor. They alleged further that, complainant left the matrimonial home with son as per her own wish and at the time of leaving of their house, she has taken her all the articles / ornaments etc.

8. The applicants further alleged that, there is a delay of 4 years in lodging a complaint and it is not properly explained. The applicants are permanent residents of the address given by them and they are ready to co-operate with police.

9. This application is strongly resisted by prosecution by filing reply vide Exh.4. According to the prosecution, in this matter section 406 of IPC and section 4 of Dowry Prohibition Act have been added and investigation is still going on. Prosecution alleged further that, the applicants have obtained Streedhan of the complainant and the same is not returned to her. Prosecution alleged further that, name of sister-in-law of complainant i.e. Poonam Chauhan is added as an account in this crime and for further investigation custodial interrogation of the applicants is necessary.

10. In this matter, original complainant is also appeared and strongly resisted the prayer. According to her, the applicants forced her to leave the house alongwith 6 years old son, after death of her husband. She alleged further that, the applicants and her sister-in-law always illtreated to her and demanded ground to her. According to her, the applicants prepared forged documents and changed name in electricity bill which was in victims late husband's name. She prays to reject the prayer.

11. On perusal of the contents in FIR, it appears that, since the year 2018, the complainant is not residing with the applicants / in-laws. There are specific contents in complaint that, since year 2018 to 2022 her father convenience her in-laws to allow her for cohabitation with them. But, applicants denied for the same. These contents in FIR, reflects that, since the year 2018, she was not residing with the applicants. Whatever, illtreatment given to her is of prior to year 2018 itself. Thus, there is a long delay to file FIR in this regard.

12. It is a fact that, in FIR the complainant has not stated about illtreatment to her by her sister-in-law Poonam Chauhan. As per the say of I.O., said Poonam Chauhan is added as a accused. But mere this fact is not sufficient to draw adverse inference against these applicants. No doubt, according to complainant, her ornaments / Streedhan is with the applicants and same is not returned to her. But, to recover her ornaments / streedhan, custodial interrogation of the applicants is not necessary. The complainant may recover the same by filing separate proceeding to that regard.

13. It appears that, the present crime is in respect of family dispute between the parties. The complainant is having a complaint regarding her rights in a room owned by her husband. The said dispute is of civil in nature. To decide complainant's rights in the said room, physical custody of the applicants with police is not necessary. Considering the nature of offences alleged, I am of the view that, further investigation in this crime can be carried out without physical presence of the applicants with police.

14. It is a fact that, complainant has opposed the prayer on t he ground that the applicants not co-operated in mediation process. But, her said ground is not found so legal and proper to reject the prayer.

15. Hence, for the aforesaid reasons, I am of the view that, all the applicants have made out a case to use discretion in their favour. Hence, I proceeded to pass following order:

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ORDER

1. Anticipatory Bail Application No.1904 of 2022 is allowed.
2. In the event of arrest of, **Applicant No.1 - Mrs.Savitridevi Ramnath Chauhan, Applicant No.2 - Mr. Ashok Ramnath Chauhan and Applicant No.3 - Mrs.Shikha Ashok Chauhan** be released on bail, on executing **P.R.Bond of Rs.15,000/- (Fifteen Thousand Only) each, with surety bond of like amount by them,** in C.R. No.0674/2022, registered at Kandivali Police Station, punishable under sections 498(A), 504, 506 323, 406 r/w.34 of the Indian Penal Code, 1860 and section 4 of Dowry Prohibition Act.
3. The Applicants are directed to co-operate with the investigation machinery.
4. The Applicants are further directed to attend before the I.O. of concerned police station on every Friday in between 10:00 a.m. to 12:00 noon till filing of charge-sheet.
5. The Applicants are further directed not to tamper or hamper with the prosecution evidence and witnesses in any manner.
6. Anticipatory Bail Application No.1904 of 2022 is disposed of accordingly.

(Order dictated pronounced in open Court)

Date: 12.01.2023

(N.L.KALE)

**THE ADDL.SESIONS JUDGE
CITY CIVIL & SESSIONS COURT,
BORIVALI DIVISION, DINDOSHI**

Order dictated on : 11.01.2023
Order typed on : 11.01.2023
Checked, corrected & Signed on : 12.01.2023

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

UPLOAD DATE

Ms. M.M.Palav

AND TIME : 12/01/2023 at 04.40 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	12/01/2023
Judgment/Order signed by P.O. on	12/01/2023
Judgment/Order uploaded on	12/01/2023

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