

MHCC050067272022



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

ANTICIPATORY BAIL APPLICATION NO.2018 OF 2022

IN

C.R.NO.1477 OF 2021

Mr. Sharif Usman Sayyed
Age – 37 years, Occ.- –
Residing at Flat No.704, Bldg. No.3,
Wing No.2/B, Near Kala Vidyalaya
School, Police Compound, Mhada,
Malwani, Malad (W), Mumbai-400 095

....Applicant

V/s.

The State of Maharashtra
(At the instance of Malwani Police Station, Mumbai)

.....Respondent

Adv. Sufiyan Khan for applicant/accused.
APP. Ms. R. S. Kanojia for State/respondent.

**CORAM : H.H. Additional Sessions Judge,
Shri S. N. Salve.
Court Room No.15.
Date : 19th January, 2023**

ORAL ORDER

Applicant, Sharif Usman Sayyed has filed this application under section 438 of the Code of Criminal Procedure for grant of Bail in anticipation of arrest in Crime No.1477/2021 registered with Malwani Police Station for the offence punishable

under Secs. 498-A, 323, 504, 506 of the Indian Penal Code and offence under Sec.3 and 4 of the Muslim Women (Protection of Rights on Marriage) Act, 2019.

2. The applicant has contended that he is innocent and has not committed the offence as alleged by the prosecution. It is contended by him that he is apprehending his arrest in connection with the report lodged by the informant alleging therein that applicant is her husband and after the marriage he harassed her by demanding dowry of Rs. 3,50,000/- and in order to meet his unlawful demands, he subjected her cruelty and also threatened for dire consequences. According to the applicant, he has never subjected the informant to the cruelty as alleged. It is submitted by him that there is no need of custodial interrogation. He is ready to abide by the terms and conditions, if any, imposed by the Court. He is also ready to render full co-operation to the Investigating Officer for further investigation of the crime. Lastly, he prayed that he be enlarged on bail in anticipation of his arrest in aforesaid crime.

3. The prosecution has opposed the application by filing say at Ex.3 contending that there is strong prima facie evidence against the applicant. It is further contended that the applicant is involved in the serious offence. It is further contended that the applicant was harassing the informant on demand of dowry for Rs.3,50,000/-. It is contended that for the purpose of fair and detail investigation of the crime, his custodial interrogation is necessary. It is further contended that if the applicant is released on bail, there is possibility of threatening the informant and witnesses. It is further contended that custodial interrogation of the applicant is necessary

for detail investigation. It is contended that the investigation is not yet completed. On these amongst other grounds, the APP sought for rejection of the anticipatory bail application.

4. I have heard Ld. Advocate for the applicant and Ld. A.P.P. for the State. Despite issuance of notice, the informant did not remain present before the Court to oppose the bail application.

5. Having heard the Ld. Advocate for the applicant-accused, Ld. A.P.P. for the State and on going through the FIR, it may be stated that there is no need of custodial interrogation as far as applicant is concerned. This is because the offences alleged against are only Secs. 498-A, 323, 504, 506 of the Indian Penal Code and sec.3 and 4 of the Muslim Women (Protection of Rights on Marriage) Act. As per the provisions of the Muslim Women (Protection of Rights on Marriage) Act, it is necessary to hear the informant before granting bail to the accused. Despite issuance of notice, the informant did not remain present before the Court.

6. Considering the nature of the allegations made in the F.I.R. and in view of the decision of Their Lordships of Apex Court in the case of *Arnesh Kumar Vs. State of Bihar, in Cri. Appeal No.1277/2014*, it would be appropriate to grant anticipatory bail to the applicant directing the police not to arrest him in the event of his arrest.

7. Furthermore, it appears that the applicant is permanent resident of the address given in the title clause of the application and

so there is no possibility of his fleeing away from justice. Apart from that, there is no question of tampering with prosecution evidence considering the averments made in the First Information Report. Therefore, considering the nature and gravity of the accusations, it will be appropriate to grant bail to the applicant in the event of his arrest in the aforesaid crime.

8. For these reasons, to my mind, the applicant is entitled for his release on bail since considering the nature of allegations, I do not find that there is prima facie case to hold that the applicant-accused has committed offence punishable u/s. 498-A, 323, 504, 506 of the IPC and sec.3 and 4 of the Muslim Women (Protection of Rights on Marriage) Act. However, to strike out the balance between the liberty of the applicant and the interest of the prosecution to investigate the crime, it would be appropriate to direct the applicant to attend the Police Station, till filing of the charge-sheet.

In the result, the following order is made :-

ORDER

1. Anticipatory Bail Application No.2018 of 2022 is allowed.
2. The Malwani Police Station is directed that the applicant-accused Sharif Usman Sayyed in C.R.No.1477/2021 registered for the offence punishable under Secs. 498 A, 323, 504, 506 of the Indian Penal Code r/w Sec.3, 4 of Muslim Women (Protection of Rights on Marriage) Act, 2019, in the event of his arrest, he be released on bail on furnishing his P.B. and S.B. in sum of

Rs.15,000/- (Rupees Fifteen Thousand Only) subject to following conditions :

(a) The applicant-accused shall not directly or indirectly make any inducement, threat or promise to any other persons acquainted with the facts of the accusation against him so as to dissuade them from disclosing such facts to the Court to any other officer.

(b) The applicant-accused shall attend the concerned police station from 11:00 am to 03:00 pm on each Saturday, till filing of the charge-sheet.

3. Breach of any of the conditions shall entail cancellation of bail.

4. Inform to the concerned Police Station, accordingly.

5. Accordingly, Anticipatory Bail Application No.2018 of 2022 stands disposed of.

Dt.19/01/2023

(S. N. SALVE)
Addl. Sessions Judge,
City Civil & Sessions Court,
Borivali Division, Dindoshi, Mumbai

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

UPLOAD DATE 19.01.2023
AND TIME : 4.00 p.m.

Mrs. T. S. Bhogte
NAME OF STENOGRAPHER

Name of the Judge (with Court Room No.)	HHJ Shri S. N. Salve (Court Room No.15)
Date of Pronouncement of Judgment/Order	19.01.2023
Judgment/Order signed by P.O. on	19.01.2023
Judgment/Order uploaded on	19.01.2023