

ABA 1961/2022

::1::

ORDER

MHCC050065602022



**IN THE COURT OF SESSIONS, AT DINDOSHI  
(BORIVALI DIVISION), GOREGAON, MUMBAI  
ANTICIPATORY BAIL APPLICATION NO. 1961 OF 2022  
C. R. No. 598 of 2020  
(CNR NO.MHCC05-006560-2022)**

**Siddesh Ganesh Chanori**

Age – 23 years, Occ : Service,

Adult, Indian Inhabitant,

Residing at : Sai Sadan Chawl, Waghri Wada,

Vakola Bridge, Datta Mandir Road,

Santacruz (East), Mumbai – 400 055.

**...Applicant/Accused**

**V/s.**

**The State of Maharashtra**

(Through Aarey Police Station, Mumbai

C.R.No. 598/2020)

**....Respondent**

Ld. Advocate Mr. Dattatray Papal for the Applicant/Accused.

Ld. APP Mr. Imran Shaikh for The State.

**CORAM: H.H.THE ADDITIONAL SESSIONS JUDGE  
SHRI. SHRIKANT Y. BHOSALE  
(C.R.NO.13)**

**DATE : 17<sup>TH</sup> DECEMBER, 2022**

**ORDER**

In anticipation of arrest in C. R. No.598/2020 registered with Aarey Police Station for the offences punishable under sections 326, 452, 384, 427, 504, 506 r/w 34 of IPC, the applicant has made this application for pre-arrest bail.

2. Prosecution vide say Exh. 2 resisted the application.

3. Heard Ld. Advocate Mr. Dattatray Papal for the applicant and Ld. APP Mr. Imran Shaikh for The State.

4. The case of the prosecution appears to be that the informant is having shop, the applicant and the co-accused entered in his shop on 16.10.2020 and demanded cigarette. The informant replied that cigarette is not available, thereafter, the applicant and the co-accused abused the informant in filthy language. They took the ice creams in the freeze and threw it away. The applicant also threw the other articles like bottles, eggs etc. in the shop. The informant tried to call the police by dialing 100 number, but it could not connected. Therefore, the informant called one Suresh Devasi for help. After that the applicant and the co-accused picked up stones and again entered into the shop and assaulted the informant and said Suresh by hitting their head by stones.

5. Ld. Adv for the applicant submits that the police have filed charge-sheet and the injuries reported by doctor are simple in nature. The other accused is already released by regular bail, hence, the applicant is entitled for anticipatory bail. He pointed out that previous bail application has been rejected on 07.12.2020, but thereafter, charge-sheet is filed and hence, there is change in circumstances, hence, his second bail application be considered and be allowed.

6. As against this, Ld. APP submits that since rejection of previous anticipatory bail, the applicant was absconded and therefore, he can not take benefit of filing of charge-sheet. It is also submitted that charge-sheet is filed against the co-accused and not against the present applicant. Considering the manner in which the incidence took place, it is absolutely necessary to make custodial interrogation and

hence, the application be rejected. He also submits that in each case, filing of charge-sheet can not be treated as change in circumstances. It is also his argument that necessity of recovery is one of the factor to be considered at the time of ABA. However, merely because there is nothing to be recovered, an ABA can not be granted.

7. After having regards to the facts and circumstances of the case, it is seen that the applicant and the co-accused created big scene only because the cigarette was not given to them. The articles in the shop were scattered on the road, which shows that the applicant and the co-accused tried to create terror in the vicinity. On this background, the previous bail application was rejected. Now, merely because charge-sheet is filed, if second bail application is considered, it would create new trend, which would be harmful for the law and orders system. At the same time, it will give wrong message in the society that even after first anticipatory bail is rejected, the police can not arrest the applicant. Considering all these aspects, the Court is of the view that this is not a fit case to use the discretion in favour of the applicant, hence, application deserves to be dismissed. Hence, the order.

**ORDER**

**Anticipatory Bail Application No. 1961 of 2022 stands dismissed and disposed of.**

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

**Date: 17.12.2022**

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

**ABA 1961/2022**

**::4::**

**ORDER**

Dictated on : 17.12.2022  
Transcribed on : 17.12.2022  
Checked & corrected on : 17.12.2022  
Signed on : 17.12.2022  
Sent to Dept. on :

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

Date : 17/12/2022

Time : 3.46 P.M.

UPLOAD DATE AND TIME

Ms. Tejal C. Rane

(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

17.12.2022

JUDGMENT/ORDER signed by P.O. on

17.12.2022

JUDGMENT/ORDER uploaded on

17.12.2022