

MHCC050063802022



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

ANTICIPATORY BAIL APPLICATION NO. 1911 OF 2022

IN

(C.R. No. 580 of 2022 of Meghwadi Police Station, Mumbai)

Tanvi Kailas Doiphode,

Indian Citizen, Age : 28 yrs.,

Occupation : service in United Arab Emirates,

Currently R/at Hili Complex, Bldg. No. 31,

G2, Hili, A1 Ain, Abu Dhabi

And Ace Aviana, Falcon Bldg. 2504,

Next to Hypercity, G. B. Road,

Kasarvadavali,

Thane (W). 400 615

..Applicant

Vs

The State of Maharashtra

(through Meghwadi Police Station)

..Respondents

Ld. Adv. Vivek Joshi, for the applicant.

Ld. APP P.K. Mahajan, for the State.

CORAM : H.H. THE ADDITIONAL SESSIONS JUDGE

R.M. MISHRA

(C.R.NO.4)

DATE : 22nd December, 2022

ORAL ORDER

This is an application for grant of anticipatory bail under section 438 of Cr.P.C., in connection with C.R. No. 580 of 2022, registered with Meghwadi Police Station for the offences punishable under sections 498-A, 406, 323, 504, 506, 509 read with section 34 of the Indian Penal Code.

2 Perused application and say. Heard learned advocate for the applicant and learned APP for the State.

3 On 01/10/2022 at the instance of victim/complainant aforesaid offence came to be registered.

As per the allegations in the FIR, the complainant came in contact with accused Rohan through a matrimony site Jeevansathi.com. After exchangement of necessary information marriage was settled between both families. On 21/02/2018 marriage took place between the complainant and the accused Rohan as per the customs prevail in Hindu community. Prior to the marriage, the complainant was residing at Dubai on account of her job. After marriage, she came to reside in her matrimonial home at Dindoshi, Goregaon (E). The complainant was residing with her husband, parents-in-law and sister-in-law. The applicant is sister-in-law of the complainant. In marriage, several gold ornaments, clothes and articles were given by the parents of the complainant. Beside this Rs. 2,00,000/- were deposited in the account of accused Rohan and 1,500 dollar were given to him by father of the complainant. The entire expenses of marriage were incurred by father of

the complainant. Initially complainant was behaved properly for some time. However thereafter, all the accused started showing their true colour. Accused Shubhda retained all the ornaments of the complainant with her. After the couple came back from their honeymoon, accused Shubhda started taunting her. When the complainant raised objection, accused Rohan and accused Shubhda started beating her. Accused Shubhda used to ask the complainant that no cash amount has been given by her father in the marriage. Both of them used to taunt the complainant by uttering that her parents are beggars. The accused Rohan used to taunt the complainant on the count that she is North Indian and also used to abuse her. Accused Shubhda used to instigate accused Rohan by saying that the complainant is unable to conceive and he should divorce her. In September, 2018 all family members shifted in a flat situated at Ghodbunder Road, Thane which was purchased by accused Rohan. However, the accused did not improve their behaviour with the complainant. In view of harassment and torture at the hands of family members, accused Rohan decided to reside separately along with the complainant. Accordingly, both of them shifted in a rented flat at Borivali. However, accused Shubhda used to contact with the accused Rohan and instigated him against the complainant. As result thereof, the accused Rohan used to cause beating to her due to which health of the complainant deteriorated day by day. In spite the doctor advised the complainant to take bed rest, the accused Rohan used to take the complainant in parties. The accused Rohan also used to insist the complainant to ask her father for purchasing flat for them and on that count he used to issue threats to the complainant. On 21/04/2019 after

happening a quarrel between the couple, the accused Rohan consumed floor cleaner. At that time, accused Rohan told that he would make a statement to the police that the complainant caused him to drink Lizol under the pretext of lemon juice. After admitting her husband in hospital the complainant gave information to her parents and family friend of accused Rohan. Since family friend of accused Rohan namely Nitin Kaka came in hospital, therefore, the accused Rohan did not make any such statement to the police. In the meantime, accused Kailas and accused Shubhda came in hospital and started abusing the complainant. At that time, accused Shubhda slapped the complainant and accused Kailas issued threats. After discharge, accused Rohan asked the parents of the complainant to take back the complainant with them by refusing to cohabit with her. Accordingly, the complainant lodged report in the police station.

4 By this application, the applicant has contended that she got married on 09/09/2022 and now she is working in UAE since January, 2019. Claiming herself to be innocent. The applicant further contended that her name has been added in the FIR only for the purpose of pressurizing the applicant. Nothing is to be recovered from the applicant. Entire allegations are false and fabricated. The complainant is of quarrelsome nature. She was demanding for separate residence. Considering these circumstances if the applicant is at present residing at Abu Dhabi (UAE), nothing is to be recovered from the applicant by way of custodial interrogation. FIR is time barred. The applicant, therefore, prayed for her release on anticipatory bail.

5 Application is resisted by the prosecution vide say Exh. 03 mainly on the ground that stri-dhana of the complainant is to be recovered and necessary information is to be elicited from the applicant. Moreover, statements of eye-witnesses and statement of complainant under section 164 of the Code of Criminal Procedure is to be recorded. In these circumstances, if the applicant is granted anticipatory bail, there is possibility of pressurizing eye-witnesses. It is thus, contended that the application is liable to be rejected.

6 Upon careful perusal of the entire facts and circumstances, it reveals that numerous allegations are levelled by the complainant against her husband, parents-in-law and sister-in-law by narrating number of instances which runs into number of pages. Upon close scrutiny of the nature of allegations, it reveals that after the marriage which was solemnized on 21/02/2018 initially the complainant resided with her husband and in-laws in a rented flat at Dindoshi. Even if it is alleged that there was physical ill-treatment to the complainant at the hands of her husband and mother-in-law, she used to attend family functions and parties with her husband. At one place the complainant states that after marriage her mother-in-law had taken all the ornaments from her under the pretext that those would be kept safely in tijori. On the contrary, at another place, she states that she had refused to hand over the ornaments to her mother-in-law, therefore, she was beaten by her mother-in-law and husband. In this regard, copy of proceeding of D.V. Application No. 330/DV/2019 is filed by the accused to show that in that proceeding also the complainant has contended that she did not

hand over any of her wedding jewelery to her mother-in-law before leaving for her honeymoon.

7 In the FIR itself there are variances. Complainant herself has stated that while they were residing separately in a rented flat, her husband had consumed floor-cleaner in view of quarrel happened between the spouse. It can also be seen from the FIR itself, that in April 2019 she was driven out by the accused. Despite she has lodged the report after lapse of more than three years. In fact, after filing the D.V. case, this FIR came to be lodged.

8 During the course of arguments, learned advocate for the applicant placed reliance on -

Kamlesh Kalra Vs Shilpika Kalra & Ors. Criminal Appeal No. 416 of 2020 dtd. 24/04/2020, in which the Hon'ble Supreme Court held that the finding recorded by the High Court in respect of FIR filed under section 498-A of the Indian Penal Code that the same is time barred does not call for interference. In the fact of the said case, the Hon'ble Supreme Court held that FIR filed in the year 2015 in respect of the incident of the year 2009 having been filed much more than three years after the separation of spouse and the same is time barred.

Learned advocate for the applicant further relied upon **Pooran Singh Vs State of Delhi [2021 DGLS(Del.) 540]** in which it is held that mere fact that recovery of stri-dhana cannot be the sole ground for arresting a person for an offence under sections 498-A and 406 of the IPC.

9 So far as the tenability of this application is concerned, the applicant who is sister-in-law of the complainant is at present residing at Abu Dhabi where she is serving in a private firm. In this regard, the learned advocate for the applicant placed reliance on **Vijay Babu Vs State of Kerala [2022 DGLS (Ker.) 361]** in which by placing reliance on the decision in **Sushila Aggarwal and others Vs State (NCT of Delhi) and another [(2020) 5 SCC 1]** wherein a Constitution Bench of the Supreme Court had considered various principles relating to the grant of anticipatory bail, the Hon'ble Kerala High court held that bearing in mind the aforesaid principles laid down by the Supreme Court, merely because the petitioner is outside the country, the same by itself cannot deprive him of his right to have his application for anticipatory bail considered by this court. However, it is further held by the Hon'ble Kerala High Court that above observations are made only for considering the grant of interim protection from arrest. The learned advocate for the applicant also emphasized on para No. 26 of the said case in which the scope of section 438 of the Cr.P.C. has been discussed.

10 Even otherwise, having regard to the allegations in the FIR which are made out against this applicant, only it has been mentioned that the applicant being sister-in-law of the complainant used to taunt her by uttering abuses on the count that she has not brought dowry in the marriage. It is already discussed that in the FIR itself, contradictory statements are made out by the complainant about the retention of ornaments by her mother-in-law. For the sake of justice, even assuming that any such stri-dhana is to be recovered, efficacious remedy is

available to the complainant. Though some medical treatment documents are filed on behalf of the complainant to show that she was ill-treated by the applicant while she was residing in her matrimonial home. However, as discussed earlier, FIR came to be lodged by the complainant after three years after she was deserted. Thus, considering all these circumstances, in my view, purpose will be served if certain conditions are imposed while releasing the applicant on anticipatory bail. In this view of the matter, following order is passed :

ORDER

- 1) Application under section 438 of the Code of Criminal Procedure for the grant of anticipatory bail is allowed.
- 2) In the event of arrest of the applicant **Tanvi Kailas Doiphode**, in connection with C. R. No. 580 of 2022, registered with Meghwadi Police Station for the offences punishable under sections 498-A, 406, 323, 504, 506, 509 read with section 34 of the Indian Penal Code, she be released on bail, on her executing PR Bond of Rs. 15,000/- (Rupees Fifteen Thousand Only), with one solvent surety in the like amount, on the following conditions-
 - a) Applicant shall remain present in the police station as and when called upon by the Investigating Officer and shall co-operate the Investigation agency till the investigation is completed.
 - b) The applicant shall not tamper with the prosecution evidence nor shall attempt to allure or pressurize the complainant and her family members in any manner.

- 3) Concerned Police Station be informed accordingly.
- 4) Anticipatory Bail Application No. 1911 of 2022 is hereby disposed of accordingly.

sd/-

(R.M. Mishra)

Additional Sessions Judge,
Borivali Div., Dindoshi, Mumbai

Dt. 22/12/2022

Dictated on : 22/12/2022
 Transcribed on : 22/12/2022
 Checked on : 22/12/2022
 Signed on : 22/12/2022

CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.”	
23/12/2022 at 2.35 p.m. UPLOAD DATE AND TIME	Mrs. S.B. Vichare NAME OF STENOGRAPHER
Name of Judge (with Court room no.)	HHJ R.M. Mishra, City Civil & Sessions Court, Borivali Div., Dindoshi, Mumbai (C.R.No. 04)
Date of Pronouncement of JUDGEMENT/ORDER	22/12/2022
JUDGEMENT/ORDER signed by P.O. on	22/12/2022
JUDGEMENT/ORDER uploaded on	23/12/2022