

MHCC050067232022



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

**ANTICIPATORY BAIL APPLICATION NO.2019 OF 2022
IN
C.R.NO.1004 OF 2022**

- 1) Vishwas Ramchandra Mhaskar
Aged – 52 years, Occ.- Service
Residing at – Room No.C/302,
Moreshwar Apartment, Virar Road,
Near Shiv Mandir, Moregaon,
Vasai, Thane
- 2) Rohan Sunil Koltharkar
Age – 35 years, Occ.- Service,
Residing at – Room No.05,
Jalaram Krupa House,
M. G. Road, Near Dingeswar Talao,
Kandivali (West), Mumbai – 400 067
- 3) Anand Shettiya Pitlekar
Aged – 42 years, Occ.- Service,
Residing at – Infant Jesus Cottage
Room No.04, Marve Road,
Near Malwani Church, Malad (West),
Mumbai – 400 095
- 4) Sudhir Madhukar Sawant
Aged – 37 years, Occ.- Service
Residing at : Room No.02, Janu Pada
Vikas Mandal, Near Western Express
Highway, Aurli Road, Kandivali (East),
Mumbai – 400 101

...Applicants/
Original Accused.

V/s.

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

.....Respondent

Adv. Swapnil Malekar for applicants/accused.
APP. Ms. R. S. Kanojia for State/respondent.
Adv. Vijaykumar Dhobi for intervenor.

**CORAM : H.H. Additional Sessions Judge,
Shri S. N. Salve.
Court Room No.15.
Date : 11th January, 2023**

ORAL ORDER

This application Under Section 438 of the Code of Criminal Procedure is moved by the applicants-accused for grant of Bail in anticipation of arrest in Crime No.1004 of 2022 registered with Charkop Police Station, Mumbai for the offence punishable under Secs. 354 (B), 323, 504 and 506 read with Sec.34 of the Indian Penal Code.

2. The applicants – accused are apprehending their arrest in connection with the aforesaid crime registered at the instance of the informant alleging therein that on 1st December 2022 at about 7:30 PM all the applicants – accused started abusing the informant, applicant-accused No.2 caught hold her hair, applicant-accused No.3 caught hold her maxi, assaulted her and outraged her modesty. According to the applicants – accused, they have not committed the offence as alleged by the informant and they have been falsely implicated. According to the applicants – accused, there is delay of 9 days in lodging the FIR which has not been explained by the informant. According to them, the offence under section 354 (B) of

the Indian Penal Code is not attracted. According to them, there is no need of custodial interrogation. They submit that they are ready to render full cooperation to the investigation agency for further investigation of the crime. They submit that they are permanent residents of the address given in the cause title of the application, so there is no possibility of evading the trial. They submit that they are having no criminal antecedents. They are ready to abide by the terms and conditions imposed by the court. Ultimately, they prayed that they be enlarged on bail in anticipation of their arrest in the aforesaid crime.

3. The prosecution has resisted the application by filing say Exh.3 contending that the applicants-accused by assaulting the informant outraged her modesty. The investigation of the crime is on. If the applicants are released on bail in anticipation of their arrest, there is every possibility that they may threaten the informant. On these grounds, the prosecution prayed for rejection of bail application.

4. I have heard Ld. Advocate for the applicants-accused and Ld. A.P.P. for the State.

5. After considering the rival submissions, it would be appropriate to grant bail to the applicants – accused in anticipation of their arrest in the aforesaid crime for the following reasons:

Firstly, there is delay of 9 days in lodging the report which has not been satisfactorily explained which creates doubts about the involvement of the applicants

in the crime.

Secondly, the informant did not sustain any serious injury in the alleged offence.

Thirdly, it is not the case of the prosecution that the present applicants have criminal antecedents.

Fourthly, custodial interrogation is not necessary for the investigation of the crime.

Lastly, the applicants are permanent residents of the address given in the cause title of the application, so there is no possibility of evading the trial.

6. In view of the above stated reasons and considering the nature of the crime and manner in which it is committed, it would be appropriate to exercise discretion under section 438 of the Code of Criminal Procedure to release the applicants – accused on anticipatory bail. However, to strike out the balance between the liberty of the applicants-accused and the interest of the prosecution to investigate the crime, it would be appropriate to direct the applicants-accused 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. 2019 of 2022 is allowed.
2. Charkop Police Station, Mumbai is directed that the applicant No.1-Vishwas Ramchandra Mhaskar, applicant No.2-Rohan Sunil Koltharkar, applicant No.3-Anand Shettiya Pitlekar and applicant

No.4 – Sudhir Madhukar Sawant in Crime No.1004/2022 for the offence punishable under Sec. 354 (B), 323, 504 and 506 read with Sec.34 of the Indian Penal Code, in the event of their arrest, they be released on bail on furnishing P.B. and S.B. in sum of Rs.15,000/- (Rupees Fifteen Thousand Only) each subject to following conditions:

(a) The applicants-accused shall attend the concerned police station from 10:00 am to 02:00 pm on every Sunday, till filing of the charge-sheet.

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

3. Breach of any of the conditions shall entail cancellation of bail.
4. Inform to the concerned Police Station, accordingly.
5. Anticipatory Bail Application No.2019 of 2022 stands disposed of accordingly.

Dt.11/01/2023

(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 11.01.2023
AND TIME : 1.30 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	11.01.2023
Judgment/Order signed by P.O. on	11.01.2023
Judgment/Order uploaded on	11.01.2023