MHCC050062522022

ANTICIPATORY BAIL APPLICATION NO. 1878 OF 2022

1) Mr. Muzaffar Irfan Shaikh
Age: 25 years, Occ.: Job,

2) Mr. Irfan Usman Gani Shaikh
Age: 65 years, Occ.: Nil,

3) Mrs. Farhat Irfan Shaikh
Age: 43 years, Occ.: Housewife,
Residing at:- Hawaldar Chawl no. 59,
Room no. 25, Mogra Pada,
Andheri (E), Mumbai- 400069.

4) Mrs. Nilofar Hayath Sayyed
Residing at:- Mohd. Hussain Chawl,
Room no. 6, Telly Gully Cross Road,
Andheri (E), Mumbai- 400069. **..Applicants**

V/s

The State of Maharashtra
(At the instance of Sakinaka Police Station,
Mumbai in CR No. 2247/2022) **...Respondent**

Shri. Ramesh Mishra alongwith Shri. Naseem Shaikh, Advocate for applicants.
Shri. Bhavna Pandey alongwith Shri. Vijay Yadav, Advocate for intervener.
Shri. Ambekar, Addl. PP for the State/respondents.

Coram: His Honour Additional Sessions Judge,
Shridhar M. Bhosale
(C.R.No.1)
Date : 13th January, 2023.

ORDER

1. This is an application under Section 438 of Code of Criminal Procedure (hereinafter referred as “Cr.P.C.”) for anticipatory bail on apprehension of their arrest in connection with C.R. No. 2247 of 2022 registered at Police Station, Sakinaka for the offences under Sections 498-A, 406, 504, 506, r/w 34 of Indian Penal Code (hereinafter referred as 'IPC').

2. Perused the application and say Exh. 2. Perused the intervention application.

3. In short, informant was studying at Bagdaka College, Mumbai and she knew applicant no. 1 and then become a friend and fall in love. Thereafter, they get married on 17/02/2022. Immediately after 32 days of marriage she was subjected ill treatment and she was dropped to parents house. It is further alleged that applicant no. 3 her mother-in-law was always insisting for gold and silver ornaments and give dowry and as informant parents unable to comply her demand she was ill treating her. Further it is alleged that the applicant no. 1 her husband, cousin i.e. applicant no. 4 and her mother-in-law applicant no. 3 gave assaulted and also abused her.

4. The Learned advocate for the applicant-accused submitted that the allegations are general in nature. He submitted that the informant was insisting to reside separately and hence, on her own went to the parents house. It is submitted that she was giving threat to implicate applicants in false case. Therefore, even before filing a written complaint by the informant, they have filed a NC report to the police station. (It is also alleged that the applicant ornaments by applicant no. 3.) It is further submitted that now it is well settled that recovery of stridhan a custody cannot be granted.

5. Per contra Learned Additional PP submitted that the statement of witnesses are yet to be recorded further in spite of given notice under Section 41(1) of Cr.P.C. the applicant did not co-operate to the police. It is further submitted that investigation is necessary in respect of stridhan recovery.

6. Whereas in the written argument, the intervener-informant has narrated the ill treatment cause to her by various manner by the applicants. According to her, applicant no. 3 always interfere in their personal issues and threatened her for life and demands dowry.

7. On consideration of the allegations it could be seen that those are general in nature. It is now well settle that merely recovery of stridhan custodial interrogation is not necessary. Moreover, from the documents it could be gathered that even before filing a written complaint, applicants have made complaint against the informant alleging therein that she was giving threat to implicate applicants in false case. Therefore, all these facts

and circumstances it is proper to grant anticipatory bail as there is no necessity of custodial interrogation. Hence, I pass the following order :

ORDER

1. Anticipatory Bail Application No. 1878 of 2022 is hereby allowed.
2. In the event of arrest, applicant-accused no. 1 Mr. Muzaffar Irfan Shaikh, applicant-accused no. 2 Mr. Irfan Usman Gani Shaikh, applicant-accused no. 3 Mrs. Farhat Irfan Shaikh and applicant-accused no. 4 Mrs. Nilofar Hayath Sayyed in connection with C.R.No. 2247 of 2022 registered at Police Station, Sakinaka for the offences under Sections 498-A, 406, 504, 506, r/w 34 of Indian Penal Code, they be released on executing PR Bond of Rs. 15,000/- (Rs. Fifteen Thousand only) each, and the like amount with one surety each.
3. Applicant-accused no. 1 Mr. Muzaffar Irfan Shaikh, applicant-accused no. 2 Mr. Irfan Usman Gani Shaikh, applicant-accused no. 3 Mrs. Farhat Irfan Shaikh and applicant-accused no. 4 Mrs. Nilofar Hayath Sayyed, shall report to the police station, Sakinaka on 16.01.2023 and 17.01.2023 in between 11.00 a.m. to 01.00 p.m. and shall co-operate to the investigating officer as and when required for the purpose of investigation.
4. Applicant-accused no. 1 Mr. Muzaffar Irfan Shaikh, applicant-accused no. 2 Mr. Irfan Usman Gani Shaikh, applicant-accused no. 3 Mrs. Farhat Irfan Shaikh and applicant-accused no. 4 Mrs. Nilofar Hayath Sayyed, shall not tamper the evidence

5. Anticipatory Bail Application No. 1878 of 2022 stands disposed off accordingly.

(Sridhar M. Bhosale)
Addl. Sessions Judge
Sessions Court,
Dindoshi, Mumbai.

13.01.2023

Date of dictation : 13.01.2023
Date of transcription by steno : 13.01.2023
Signed on : 16.01.2023

"CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER." 17.01.2023 at 4.59 p.m. UPLOAD DATE AND TIME	Mrs. J. S. Gole (H.G.STENOGRAPHER) NAME OF STENOGRAPHER
Name of the Judge (With Court Room No.)	H.H.1st A.P.J. Shridhar M. Bhosale Court Room No.1
Date of pronouncement of Judgment/Order	13.01.2023
Judgment/Order signed by P.O. on	16.01.2023
Judgment/Order uploaded on	17.01.2023