



IN THE COURT OF SESSIONS AT GREATER BOMBAY

**ANTICIPATORY BAIL APPLICATION NO. 2750 OF 2022
(CNR NO. MHCC02-016842-2022)**

1. Ajaz Ahamed Mohd. Ayub Shaikh)
2. Mohd. Ayub Chand Shaikh)
3. Haseena Begum Mohd. Ayub Shaikh)
4. Gazala Begum Mohd. Ayub Shaikh) ... Applicants

Versus

- The State of Maharashtra**)
(Through BKC Police Station)) ... Respondent

Ld. Adv. Siraj Ghiwala for the Applicants.

Ld. APP. Geeta Sharma for State / Respondent.

Ld. Adv. Tanveer Nizam for Intervener/ Informant.

**CORAM : HER HONOUR THE ADDITIONAL SESSIONS
JUDGE SMT. A. B. SHARMA (C.R. NO. 39)**

DATED : 18.02.2023.

ORDER

The Applicants have moved this application under Section 438 of Criminal Procedure Code for grant of pre-arrest bail in Crime No. 995 of 2022 for the offences punishable under Sections 377, 498(A), 354(A), 323, 406, 506 read with Section 34 of the Indian Penal Code registered at BKC Police Station, Mumbai.

2. Read application and Say (Exh. 2) of investigating officer filed through learned Additional Public Prosecutor. Perused the case

diary, documents annexed with the application and written submission of Intervener.

3. Heard Learned Advocate for the applicants, Learned Additional Public Prosecutor, the Learned Advocate for Intervener and Intervener.

4. The applicant No. 1 is husband, the applicant No. 2 is father-in-law, the applicant No. 3 is mother-in-law and the applicant No. 4 is sister-in-law of the informant. After marriage, the informant went to her matrimonial home for cohabitation and she had given her ornaments to the applicant Nos. 1 to 3. The applicant No. 1 and the informant used to reside in separate room situated on Plot No. 8 and other applicants were residing in Room No. 947. It is alleged that the informant after completing her household work used to go to Room No. 947 for household work. After 4-5 days of marriage, the informant came to know that the applicant No. 1 was having love affair with another girl. When she asked about it to the applicant No. 1, he started insulting and beating her. When she made complaint to the applicant Nos. 2 and 3 about the behaviour of applicant No. 1, they did not pay any heed towards her. At that time, the applicant No. 1 has beaten the informant. It is alleged that the applicant No. 4 is residing at the short distance from the matrimonial home of the informant. The applicant No. 4 used to come to her parental house and used to pick up quarrel with the informant. It is also alleged that she used to harass the informant mentally and physically. It is further alleged that the informant has communicated about ill treatment to her mother and brother. The applicants used to pick up quarrel whenever the mother

and brother of the informant used to meet her. It is also alleged that the applicant No. 1 tried to strangle her. In July-2021, when the informant was not feeling well, the applicant No. 1 dropped her to her parental house.

5. It is alleged that whenever the applicant No. 1 used to go for his work, the informant used to make him video call, at that time, he used to ask for making him video call in nude position. When the informant used to refuse for the same, he used to beat up her. Thus, due to fear, she made video call to him as per his instruction. It is further alleged that the applicant No. 1 used to show the obscene videos to the informant and force her for doing the same and on refusal for the same, the applicant No. 1 by gagging her mouth used to commit carnal intercourse with her. It is also alleged that the applicant No. 1 threatened her that if she discloses about the aforesaid incidents to anybody, he will circulate her nude photographs and videos on Internet. It is further alleged that when she disclosed about his misbehaviour to the applicant No. 2, he did not pay attention to her. It is also alleged that the applicants misappropriated the ornaments and household articles worth Rs. 3,27,950/-. The applicants harassed the informant mentally and physically and also threatened her. Therefore, she lodged report against the applicants.

6. The Say filed by the prosecution goes to show that the alleged mobile phone of the applicant No. 1 is recovered. But, no obscene videos were found therein, so, it was forwarded to the FSL. The learned advocate for the intervenor submitted that on the whats App chats, the applicants have admitted that the ornaments of the informant

are in their possession, but despite of the same, they have not handed over it to the informant. It is also submitted that the Investigating Officer also has not investigating the matter properly. He also submitted that the custodial interrogation is required for the purpose of the recovery of the ornaments.

7. It is seen that, the offence is arising out of the matrimonial dispute. So far as the recovery of the gift articles or Stridhan is concerned, it is well settled that only for the purpose of the recovery of the ornaments, dowry articles or Stridhan, the application for the pre-arrest bail cannot be rejected. The informant is having remedy to recover the same by filing appropriate proceedings. Rest of the material investigation seems to be completed in respect of the applicants. The applicants have already joined the investigation after grant of the interim protection. The offence is non-bailable and thus the applicants have reasonable apprehension of their arrest at the hands of police. Looking to the nature of the offence, I do not find that, the custodial interrogation of the applicants is required for the purpose of the investigation. Considering the facts and circumstances of the case, I am of the view that, the applicants are entitled to get confirmed the ad-interim protection granted to them subject to certain conditions. Hence, I proceed to pass following order :-

ORDER

1. The Anticipatory Bail Application No. 2750 of 2022 is hereby allowed.
2. The ad-interim protection already granted to the applicants on 23/12/2022 is hereby made absolute on the

following modified conditions :-

- a. The applicants shall not leave India without prior permission of the Court.
- b. The applicants shall submit the proof of their residential address, phone number, Aadhar Card and Election Card, if any.
- c. The applicants are directed to co-operate during course of investigation within 3 days from the date of this order and also to attend the police station as and when called by the Investigating officer.
- d. The applicants are further directed not to tamper with the prosecution witnesses in any manner.

3. The Anticipatory Bail Application stands disposed off.



(A. B. SHARMA)
Additional Sessions Judge
City Civil & Sessions Court
Greater Bombay.

Date :- 18.02.2023.

Dictation Typed on : 18.02.2023.
Checked & Signed on : 24.02.2023.

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

24.02.2023 at 12.05 pm
UPLOAD DATE AND TIME

(Y.M. SAKHARKAR)
NAME OF STENOGRAPHER

Name of the Judge (With Court room no.)	SMT. A. B. SHARMA (C.R. NO. 39)
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Date of Pronouncement of JUDGMENT/ ORDER	18.02.2023
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JUDGMENT/ORDER signed by P.O. on	24.02.2023
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JUDGMENT/ORDER uploaded on	24.02.2023
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