



IN THE COURT OF SESSION AT GREATER BOMBAY

**ANTICIPATORY BAIL APPLICATION NO. 2754 OF 2022
(CNR NO. MHCC02-016895-2022)**

1. **Mohammed Akram Ibrar Khan**)
2. **Shabnam Mohammad Akram Khan**)
3. **Rajiya Bano**)
4. **Mohammed Ayaz Ibrar Khan**)
5. **Nilofer Mohammad Anavar Khan**)
6. **Sufiya Bano Ayaz Khan**) ... Applicants

Versus

- The State of Maharashtra**)
(Through V.B. Nagar Police Station)) ... Respondent

Ld. Adv. Asif Naqvi for the Applicant.
Ld. APP. Geeta Sharma for State / Respondent.
Ld. Adv. Israr Shaikh for Intervener/ Informant.

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

DATED : 09.01.2023.

ORDER

The Applicants have moved this application under Section 438 of Criminal Procedure Code for grant of pre-arrest bail in Crime No. 625 of 2022 for the offence punishable under Sections 498-A, 323, 328, 406 read with Section 34 of the Indian Penal Code registered at V.B. Nagar Police Station, Mumbai.

2. Read application and Say (Exh. 03) of investigating officer

filed through learned Additional Public Prosecutor. Perused documents annexed with the application.

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

4. The informant after her marriage with the co-accused started residing at her matrimonial home with the applicants. The applicants used to tease and mentally harass her on the count of household work. The informant was compelled to do all the household work. Due to which, she lost her unborn child in the year 2015. It is further alleged that when the informant was pregnant in the year 2016, her husband i.e. co-accused told her that he does not want child now and asked to bring money from her parental house, otherwise, he doesn't want any child and picked up quarrel with the informant and scuffle took place between them, in which she sustained injury to her stomach and bleeding was started. Due to which, the co-accused took the informant to Suraj Clinic, Kurla and her pregnancy was terminated due to heavy bleeding. On 02.11.2017, she begotten a son and he is having hole in his heart and doctor advised for the immediate treatment of the child. But, the co-accused has refused to bear the medical expenses and also asked the informant to bring money from her parental house. Therefore, the parents of the informant has borne all the medical expenses. It is further alleged that the co-accused did not earn and he was roaming till late night and used to ask money from the informant to meet his daily expenses. The co-accused used to receive phone call of a lady and whenever the informant asked him, he threatened her to commit suicide. It is further alleged that her husband used to give her some pills, powder and mantra chanted water, due to

which, she used to sleep for long time. The applicant used to tease her by saying her 'mad' and 'fat'. The sisters-in-law used to complain to the mother-in-law that the informant used to sleep only and not doing household work. It is also alleged that the mother-in-law and the co-accused used to scold upon her. They used to insist her to tell her father to purchase the flat for the co-accused. Since 07.04.2021 till August-2022, the applicants used to ask the informant to bring money from her parental house. They used to pick up quarrel on the count of not bringing money and also used to harass her mentally and physically. On 18.08.2022, her husband brought the informant to her parental house on the count that he has to bear Medical expenses of his son. On 26.11.2022, her husband came to the parental house of the informant and demanded money to bear the expenses of the informant and her son to the father of the informant. On their refusal, he got annoyed and left her house. Thereafter, he has not inquired about the informant and her son.

5. On 28.11.2022, kidney stone was detected and the informant was operated for the same. During that period, the co-accused did not pay any attention towards the informant. On 01.12.2022, when the informant made phone call, he did not receive it. She made phone call from another number and asked him the reason for not picking her call. At that time, her husband has pronounced 'Triple Talaq' and informed her that he performed another marriage. Thereafter, the informant and her family members went to the house of applicants and they noticed the second wife of her husband in that house. It is further alleged that the sisters-in-law of the informant did not allow her to enter into their house, as her husband was given her divorce. It is further alleged that applicant No. 2 and Saba i.e. second

wife of the co-accused assaulted the informant and drove out of the house. Thereafter, the informant lodged report against the applicants and co-accused.

6. It is seen that the offence is arising out of the matrimonial dispute. It is further seen that after grant of ad-interim protection, the applicants have joined the investigation. The material investigation in respect of the applicants is almost completed. The applicants are residing within the jurisdiction of this Court. It is not the case of the prosecution that the applicants have not complied the directions given by the Court. So far as the recovery of streedhan is concerned, it can be recovered by filing separate proceedings and only for the sole ground the application for pre-arrest bail cannot be rejected. The documents annexed with the application indicate that prior lodging FIR, the co-accused has lodged N.C. against the relatives of the informant. Considering the facts and circumstances of the case, I do not find that the custodial interrogation of the applicants is required. Hence, I am of the view that the applicants have made out their case for grant of pre-arrest bail and proceed to pass following order :-

OPERATIVE ORDER

1. The Anticipatory Bail Application No. 2754 of 2022 is hereby allowed.
2. The ad-interim protection already granted to the applicants on 17/12/2022 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 :- 09.01.2023.

Dictation Typed on : 09.01.2023.
Checked & Signed on : 10.02.2023.

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

10.02.2023 at 5.55 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)

Date of Pronouncement of JUDGMENT/ ORDER 09.01.2023

JUDGMENT/ORDER signed by P.O. on 10.02.2023

JUDGMENT/ORDER uploaded on 10.02.2023