

ABA 1832/2022

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ORDER

MHCC050061202022



**IN THE COURT OF SESSIONS, AT DINDOSHI
(BORIVALI DIVISION), GOREGAON, MUMBAI
ANTICIPATORY BAIL APPLICATION NO. 1832 OF 2022
(CNR NO.MHCC05-006120-2022)**

Pravin Acchelal Gupta

Age – 38 years, Occ : Business,
Residing at : Room No. 777, Squaters Colony,
Maulana Azad Road, Near Lucky Hotel,
Malad (East), Mumbai – 400 097.

... Applicant/Accused

V/s.

The State of Maharashtra

(Through Dindoshi Police Station, Mumbai)

....Respondent

Ld. Advocate Mr. Yogesh Joshi for the Applicant/Accused.

Ld. APP Mr. Imran Shaikh for The State.

**CORAM: H.H.THE ADDITIONAL SESSIONS JUDGE
SHRI. SHRIKANT Y. BHOSALE
(C.R.NO.13)**

DATE : 5TH DECEMBER, 2022

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In anticipation of arrest by Dindoshi police in case likely to be filed by the wife, the applicant has made this application for pre-arrest bail.

2. According to the applicant his wife has left the matrimonial house on 12.09.2022 and has gave the threat to file false case and

therefore, the applicant has an apprehension that if his wife files complaint against him at Dindoshi police station, there is a possibility of his arrest. He therefore request to grant anticipatory bail.

3. According to applicant the matrimonial house is situated in jurisdiction of Dindoshi police and the paternal house of his wife is situated at Chitalsar police station, Dist – Thane. The applicant accordingly made application bearing CBA No. 3495 of 2022 before Additional Sessions Judge, Thane, who by order dated 16.09.2022 has directed the concerned police to give 72 hours notice, if the crime is registered against the applicant. The applicant therefore submit that this Court may also grant him similar relief.

4. The prosecution has not filed say and therefore matter proceeded without say. However, the Ld. APP argued that Dindoshi police have not received any complaint against the applicant. The apprehension expressed by the applicant is not real and if the applicant has already secured the order from Thane Court, then the bail application in different Court is not maintainable. The Ld. APP gave trace on the point that the apprehension of the applicant is not real.

5. After having regards to the arguments and the authority relied by the Ld. APP, it is seen that The Hon'ble High Court in case between *Shri. Sahajanand Investments Pvt. Ltd. V/s. State of Goa & Anr., 2013 ALL MR (Cri) 1347* has observed that order directing the police to give notice of 48 hours in case crime is registered needs to be deprecated. Accordingly, The Hon'ble High Court set aside that part of the order passed by the Ld. Sessions Judge. Not only this, but the directions were issued to the Registry to circulate the copy of the Judgment to the Principal District Judges. The Ld. APP cited this

authority to oppose the argument of the Ld. Advocate for the applicant that at least Dindoshi police be directed to issue notice of 72 hours in case crime is registered.

6. Ld. Advocate for the applicant submit that the authority relied by the prosecution is not applicable, except District North Goa and South Goa, since the copy of the order was directed to be circulated to those Principal District and Sessions Judges only. This argument of Ld. Advocate for the applicant is not acceptable, that only because the directions were given to circulate the copy to Principal District and Sessions Judge, North Goa and South Goa only, this authority is not applicable to other Sessions Courts. Thus, though said Judgment is not circulated in Maharashtra, still the ratio laid down in the said authority is binding on this Court. Hence, issuing direction to the police to give notice to the applicant, is out of question.

7. So far as merit of the case is concerned, it is seen that according to the applicant, his wife has left the house on 12.09.2022 and on 13.09.2022 he himself made complaint to the police stating that his wife is likely to file complaint against him. It is a matter of fact that till today the wife has not filed any complaint. It appears that the applicant himself is inviting the process of law against him. In fact the apprehension to the applicant do not appear to be genuine. Moreover, the applicant has already secured order from Thane Sessions Court. According to applicant his wife can file complaint to more police station, but it does not mean that other Sessions Court having jurisdiction over the concerned police station shall grant him anticipatory bail. Therefore, the order of the Ld. Additional Sessions Judge, Thane do not appears to be relevant to decide the present application.

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8. In short, the apprehension in the mind of the applicant do not appears to be genuine and therefore, though filing of case or first information is not mandatory, still the facts and circumstances of the case do not warrant issuance of anticipatory bail order as expected by the applicant. The application is therefore devoid of merit, needs to be rejected. Hence, the order.

ORDER

Anticipatory Bail Application No. 1832 of 2022 stands rejected and disposed of.

(Dictated and pronounced in presence of Ld. Advocate for Applicant & Ld. APP)

Date: 05.12.2022

(Shrikant Y. Bhosale)

The Addl. Sessions Judge
City Civil & Sessions Court,
Borivali Division, Dindoshi.

Dictated on : 05.12.2022
Transcribed on : 05.12.2022
Checked & corrected on : 07.12.2022
Signed on : 07.12.2022
Sent to Dept. on :

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

Date : 07/12/2022

Time : 12.33 P.M.

UPLOAD DATE AND TIME

Ms. Tejal C. Rane

(Stenographer Grade-I)

NAME OF STENOGRAPHER

Name of the Judge (with Court room no.)

**HHJ S. Y. BHOSALE
(Court Room No.13)**

Date of Pronouncement of
JUDGMENT/ORDER

05.12.2022

JUDGMENT/ORDER signed by P.O. on

07.12.2022

JUDGMENT/ORDER uploaded on

07.12.2022