

MHCC020169602022



IN THE COURT OF SESSIONS FOR GREATER MUMBAI
ANTICIPATORY BAIL APPLICATION NO. 2770 OF 2022
(C.R.NO.1046/2022)

1. Mr. Sagar Badiyani)
 Aged 31 years,)
 Occupation: Service.)

2. Mr. Dharmesh Badiyani)
 Aged 58 years,)
 Occupation: Business.)

3. Mrs. Chetna Badiyani)
 Aged 52 years,)
 Occupation: Business.)

All the above Nos.1 to 3 Indian Inhabitant,)
 are residing at 6, Ground Floor, 364/B,)
 Waghle Wadi, Chira Bazar,)
 Next to Thakurdwar Post Office,)
 Mumbai 400 002.)

..Applicants

Versus

State of Maharashtra)
 Through the Ld. Public Prosecutor,)
 Sessions Court, Mumbai and L.T.Marg)
 Police Station, Mumbai)

..Respondent

Appearances :-

Ld. Adv. Mr. Viral Rathod i/b RKS Associate for the Applicants.
 Ld. Addl. PP Mrs. Rajlaxmi Bhandari for the State/Respondent.

CORAM : H.H. THE ADDITIONAL SESSIONS JUDGE,
MRS. MADHURI M. DESHPANDE,
(COURT ROOM NO. 41).

DATED : 3RD JANUARY, 2023.

ORDER

1. This is an application filed by the applicants under Section 438 of the Code of Criminal Procedure, 1973, praying for releasing them on anticipatory bail in connection with C. R. No. **1046 of 2022** registered with **L.T. Marg** Police Station, Mumbai for the offence punishable under Sections 498(A) & 406 r/w 34 of the Indian Penal Code, 1860.

2. The prosecution story in short is that, the complainant aged 26 years lodged report to the Police Station **L.T.Marg**, Mumbai *inter-alia* contending that accused persons in furtherance of their common intention used to ill-treat her physically and mentally. They used to beat her; threaten her and abuse her. They have misappropriated her *shtreedhan*. On these allegations, she lodged report and offence punishable under Sections 498(A) & 406 r/w 34 of the Indian Penal Code, 1860 came to be registered against the applicants vide Crime No. **1046 of 2022**.

3. The contention of applicants is that, they are innocents and are not guilty of any crime. The said FIR is based on false and incorrect facts and is devoid of truth. There were serious medical issues and facts relating to the complainant, which came to the husband i.e. applicant No.1 knowledge post-marriage with complainant. Neither complainant nor her parents informed to them about the truth and real facts about the health deficiencies of the complainant prior to or at the time of marriage. She had no trust, respect and any care for them and used to doubt the character of her husband i.e. applicant No.1 and personality. The ornaments are already taken by complainant and by filing false

Crime/FIR, complainant is trying to grab money from them. They are reputed and respected persons and are having good reputation in their respective society. They are permanent residents of Mumbai and having deep roots in the society, therefore, no question arises of absconding if released on anticipatory bail. They are ready and willing to co-operate with the Investigating Agency as and when required. They are not having any criminal antecedents. Lastly, they prayed to release them on anticipatory bail.

4. The prosecution has opposed the application by filling Say vide Exh.2 on the grounds that, the *streedhan* of complainant is yet to be seized. The investigation is in progress. The statements of witnesses are yet to be recorded. If the applicants are released on anticipatory bail, they will pressurize the prosecution witnesses and complainant and make hurdle in the investigation and will flee away from the Court of Justice. Hence, it prayed to reject the application.

5. Heard Learned Advocate for the applicants and Learned Addl. P.P. for the State/Respondent. Gone through the record.

6. In view of these facts, following points arise for determination and findings thereon are recorded against each of them, for the reasons stated below :-

Sr. No.	<u>POINTS</u>	<u>FINDINGS</u>
1.	Whether the applicants are entitled for anticipatory bail ?	Yes.
2.	What order ?	As per final order.

REASONS

As to Point No. 1 :-

7. On perusal of contents of FIR, it appears that the marriage of complainant with the applicant Sagar Badiyani is taken place on 8/7/2022 and FIR is lodged on 9/12/2022. There is huge delay in lodging of FIR. It further appears that it is a matrimonial dispute between the complainant and present applicants on account of domestic reasons. The prosecution has not prayed for custodial interrogation of the applicants for any purpose. The apprehension of the prosecution is only that, if the applicants are released on anticipatory bail, they will not appear before the investigating agency and will pressurize the prosecution witnesses and complainant. They will also tamper the prosecution evidence and will flee from the Court of Justice. The apprehension of the prosecution can be taken care of by imposing certain stringent conditions upon the applicants. The interim protection is already granted to the applicants. Hence, Point No. 1 is answered in the affirmative.

8. Considering these facts and circumstances of the present offence, I am of the view that, it will be just and proper to allow this application and to release the applicants on anticipatory bail by imposing some stringent conditions. Hence, the following order :-

ORDER

1. Anticipatory Bail Application No. **2770 of 2022** is hereby allowed.
2. The interim protection granted vide order dated **19/12/2022** to the applicant no. 1 **Sagar Badiyani**, applicant no.2 **Dharmesh Badiyani** and applicant no. 3 **Chetna Badiyani** in connection with Crime No. **1046 of 2022** registered with **L.T.Marg** Police Station, Mumbai under Sections **498(A) & 406 r/w 34** of the Indian Penal Code, 1860 is hereby confirmed on the following conditions :-

- a) Applicants shall attend concerned police station as and when called by the Investigating Officer.
 - b) Applicants shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer.
 - c) Applicants shall not leave India without permission of the Court.
 - d) Applicants shall not commit similar type of offence in future.
 - e) Applicants shall furnish their permanent address and temporary address, if any, and their contact details to the concerned Court.
 - f) Applicants shall not change their residential address without prior intimation to the Investigation Officer and to the concerned Court.
 - g) If the applicants disobeyed any of the above condition, the prosecution is at liberty to move the Court for cancellation of anticipatory bail.
3. The Investigating Officer, **L.T.Marg** Police Station, Mumbai is directed to release the applicants on P.R. Bond of Rs. 15,000/- each with one solvent surety in like amount in the event of their arrest in the above said offence.
4. Anticipatory Bail Application No. **2770 of 2022** stands disposed of accordingly.



3/1/2023

(Mrs. Madhuri M. Deshpande)
Addl. Sessions Judge,
City Civil & Sessions Court,
Gr. Mumbai

Directly typed on : 3/1/2023
Checked & corrected on : 3/1/2023
Signed on : 3/1/2023
Sent to Dept on :

“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED ORDER.”		
Upload Date	Upload Time	Name of Stenographer
3/1/2023	12.33 P.M.	Mrs. Mrunal S. Pendkhalkar
Name of the Judge (With Court Room No.)		HHJ Mrs. Madhuri M. Deshpande (Court Room No. 41)
Date of Pronouncement of ORDER		3/1/2023
ORDER signed by PO. on		3/1/2023
ORDER uploaded on		3/1/2023