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MHCC050067282021



**IN THE COURT OF SESSIONS, AT DINDOSHI
(BORIVALI DIVISION), GOREGAON, MUMBAI
ANTICIPATORY BAIL APPLICATION NO. 1872 OF 2021
C. R. No. 343 of 2022
(CNR NO.MHCC05-006728-2021)**

1. Dr. Samir Prahladbhai Patel

Age – 37 years, Occ : Doctor,

2. Mrs. Kailashben Prahladbhai Patel

Age – 62 years, Occ : Housewife,

3. Mr. Prahladbhai Ranchhodbhai Patel

Age – 67 years, Occ : Retired Public Servant,

All residing at : Flat No. B-505, Narendra Park,

Near Mahadev Mandir, Anand Nagar,

Dahisar East, Mumbai – 400 068.

...Applicants/Accused

V/s.

The State of Maharashtra

Through Dahisar Police Station, Mumbai

C.R.No. 343/2022

....Respondent

Ld. Advocate Mr. Amol Sutrale for the Applicants/Accused.

Ld. APP Mr. R. C. Savle for The State.

Ld. Advocate Mr. Satish Agarwal for the Intervenor.

**CORAM: H.H.THE ADDITIONAL SESSIONS JUDGE
SHRI D.D.KHOCHE
(C.R.NO.13)**

DATE : 5TH APRIL, 2022

O R D E R

This is an application for grant of anticipatory bail under

Section 438 of The Cr.P.C., 1973. Court perused the application and the reply filed. Perused the intervention application, additional affidavit of applicant/accused no. 1 and his reply. Heard Ld Adv. Mr. Amol Sutrale for the applicants/accused, Ld. APP Mr. R. C. Savle for The State with Ld. Advocate Mr. Satish Agarwal for the intervenor.

2. There are three aspects of the accusations. First is subjecting cruelty to the informant. Submission of Ld. Adv Mr. Agarwal that lady does not perform marriage to go at her parentage house, has to be accepted. However, still it does not mean that in every case filing the FIR itself proves the cruelty. Court has to see the nature of accusations made. In respect of subjecting cruelty, there are no specific accusations about physical ill-treatment, whatever, is stated is in respect of alleged mental harassment. At this stage, there is nothing to gather the same. Even otherwise, the nature of accusations is such which does not show the necessity of discovery of fact at the instance of applicants/accused or recovery of articles related with subjecting cruelty to the informant doctor Forum. As against this, the accusations can be straight way deposited before the Ld. Trial Court. Therefore, for said purpose, applicants/accused are not necessary for custodial investigation.

3. Second accusation is that, the applicant/accused no. 1 Dr. Samir has extra-marital affair and therefore, he asked the informant to leave the house. That is the accusation to be dealt with and consider in the trial itself. For said purpose, applicant/accused Samir is not required for custodial investigation.

4. Third accusation is in respect of criminal breach of trust. To gather said accusation, there should be entrustment of the property,

which is *prima faice* absent over here. Second material thing is that, at present stage, Dr. Forum does not have an express material to show that rest of the ornaments and silver articles are with the applicants/accused, except which are agreed to be returned to her by the applicants/accused. Regarding this, Ld. Adv Mr. Agarwal for the intervenor submitted that every time there would not be proof of her keeping her ornaments at her in-laws house. This can be accepted. However, when one wants the other person for custodial investigation purpose, he/she can not be relieved from showing such strict material, which is absent over here. As against this, the applicants/accused appear to have fairly come before the Court with a list of ornaments which are at her in-laws house and which are to be given to her. In aforesaid circumstances, Court does not feel that even for said purpose, custodial investigation of the applicants/accused is required for, subject to that they shall hand over the articles which are given in their additional affidavit to the investigating officer.

4. Applicants/accused are resident of Dahisar (E), Mumbai and can be available for the trial. There are no criminal antecedents against them. There is possibility of their threatening the prosecution witnesses. However, that can be taken care of by suitable terms and conditions. Hence, following order.

ORDER

1. Anticipatory Bail Application No. 1872 of 2021 stands conditionally allowed.

2. In the event of arrest, in aforesaid C. R. No. 343/2022 for the offences punishable under Sections 498A, 406, 323, 504, 506 r/w 34 of the Indian Penal Code, 1860 registered with Dahisar Police Station,

Mumbai, applicants/accused Nos. 1 to 3 respectively **Samir Prahladbhai Patel, Kailashben Prahladbhai Patel and Prahladbhai Ranchhodbhai Patel** be released on their executing P. R. Bond of Rs.15,000/- (Rupees Fifteen Thousand Only) each and on furnishing one or more solvent surety/sureties of like amount and on accepting and complying following terms and conditions -

- a) They shall produce their respective Identity Card, address proof and furnish their mobile number as well as land-line number with bail papers.
- b) Applicants/accused shall hand over the gold neckless set (As per invoice) TBZ, Gold Necklace Set (as per invoice), Om Jewellers and Gold Chain (As per invoice) which are given in the list of articles ie. second last page of applicant/accused Sameer's additional affidavit to the investigating officer within next three days from today without fail.
- c) They shall not tamper with prosecution witnesses in any way.
- d) They shall attend concerned Police Station on every Friday and Monday between 3.00 p.m. to 5.00 p.m. till 30.04.2022, and thereafter as and when directed or asked by the investigating officer till filing of the charge-sheet or till end of May, 2022 whichever is earlier.
- e) They shall attend the trial regularly.
- f) They shall not commit similar offence during on bail period.
- g) They shall maintain the diary of attendance and take the endorsement of concerned police station at every time of attendance.
- h) Investigating officer shall take the custody of aforesaid ornaments from the applicant/accused by drawing the panchnama and taking

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photographs of those articles at the cost of the applicants/accused.

i) Prior to that, the investigating officer shall get verified the purity and weight of the ornaments concerned from the jeweller of the choice of investigating officer at the cost of applicants/accused.

j) Investigating officer shall deposit those gold ornaments with the Ld. Trial Court.

(Dictated and pronounced in open Court)

Date: 05.04.2022

**(D. D. KHOICHE)
THE ADDL.SESIONS JUDGE
CITY CIVIL & SESSIONS COURT,
BORIVALI DIVISION, DINDOSHI**

Dictated on	: 05.04.2022
Transcribed on	: 05.04.2022
Checked & corrected on	: 05.04.2022
Signed on	: 05.04.2022
Sent to Dept. on	:

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

Date : 06/04/2022

Time : 2.47 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 D.D.KHOCHE
(Court Room No.13)**

Date of Pronouncement of
JUDGMENT/ORDER

05.04.2022

JUDGMENT/ORDER signed by P.O. on

05.04.2022

JUDGMENT/ORDER uploaded on

06.04.2022