

MHCC050066292022



**IN THE COURT OF SESSIONS AT DINDOSHI
(BORIVALI DIVISION), GOREGAON, MUMBAI**

ANTICIPATORY BAIL APPLICATION NO. 1984 OF 2022

IN

(C.R. No. 1121 of 2022 of Andheri Police Station, Mumbai)

Mr. Taufique Khan Son of Habibullah Khan,

Age : 41 yrs., Occupation : Loan Consultant,

R/o : Flat No. 06, Second Floor,

Margdeep CHS, Tarun Bharat Society, Andheri East,

Mumbai : 400 098.

..Applicant

Vs

The State of Maharashtra

(through Andheri Police Station)

..Respondents

Ld. Adv. Sajida Shaikh, for the applicant.

Ld. APP P.K. Mahajan, for the State.

Ld. Adv.Khativ, for the intervener.

**CORAM : H.H. THE ADDITIONAL SESSIONS JUDGE
R.M. MISHRA
(C.R.NO.4)**

DATE : 9th February, 2023

ORAL ORDER

This is an application for grant of anticipatory bail under section 438 of Cr.P.C., in connection with C.R. No. 1121 of 2022, registered with Andheri Police Station for the offences punishable under sections 498-A, 324, 504 and 506 of the Indian Penal Code.

2 The aforesaid offence came to be registered at the instance of the complainant/victim. Initially offence was registered under section 324, 504 and 506 of the Indian Penal Code. Thereafter, on the basis of additional statement of the complainant/victim, section 498-A of the Indian Penal Code came to be added in the said crime.

3 It is the case of the prosecution that the complainant was married with the applicant on 23/05/2008. After two months, there used to happen quarrel between the spouse. The applicant was not doing any work and it was the complainant who was bearing all household expenses by doing the job of Interior Designer. In the year 2008, the applicant sold out 25 Tolas gold ornaments under the garb of business. In the year 2009, the applicant started demanding money to the complainant and used to cause beating to her for want of fulfillment of his demand. Thereafter, the applicant has also sold out 10 Tolas gold of the complainant. In the year 2014, the applicant snatched ATM of the complainant. When the complainant demanded ATM, the applicant had caused beating to her and also broken articles in the house. In the year 2021, the applicant developed friendship with one Tabassum. He had given Rs. 3,00,000/- to said lady by taking the said amount from the

complainant. On that count also, the applicant had caused beating to the complainant. In view of raising quarrel and harassment by the applicant, once the complainant had consumed sleeping pills and she was admitted in hospital around 20 days. The applicant thereafter, driven out the complainant. Therefore, the complainant is residing separately. On 07/10/2022, in view of issuing threats by the applicant, the complainant had lodged NC in Andheri Police Station. On that basis, N.C. was registered against the applicant. On 10/10/2022 the applicant came in the office of the complainant and asked her to share her office with him. On refusal by the complainant, the applicant abused her and also issued threats. At that time also, NC report was registered at the instance of the complainant in Police Station MIDC. Thereafter on 09/11/2022, the applicant again came in the office of the complainant and had caused beating to her by uttering abuses and criminally intimidated her. At that time, the applicant had also abused the security guard of the said building. Accordingly, the report came to be lodged.

4 By this application, the applicant has contended that he is innocent and falsely implicated in this case. It is contended that on 09/11/2022 the complainant had assaulted him and also uttered abuses in filthy language, therefore, he had lodged the complaint. On that basis, NC was registered against the complainant. There is dispute between the parties regarding the custody of child. The complainant wants to create pressure on the applicant and to make him to reside with her in her maternal house. During last 14 years, the complainant did not lodge any complaint. The applicant is ready to co-operate the Investigating Agency

and also ready to abide the conditions imposed by the court. The applicant, therefore, prayed for his released on anticipatory bail.

5 The complainant also resisted the application by filing intervener application Exh. 04. On the other hand, the prosecution vide say Exh. 03 resisted the application mainly on the ground that there is possibility of pressurizing the complainant and other prosecution witnesses. The applicant was repeatedly asked to remain present in the police station to co-operate in the investigation. However, he remained absent. The applicant is pressurizing the complainant for getting bail in this crime. There is possibility of his absconding if the applicant is granted bail. It is thus, contended that the application is liable to be rejected.

6 After considering the submissions of both sides, I have also gone through the case diary. Having regard to the entire facts and circumstances on record, it reveals that initial FIR was registered mainly on the ground that the complainant had taken away her son from the school. In the initial FIR, it is also contended that the complainant is residing separately since last two months. On that day, on account of taking away her son from the house of the applicant, quarrel had taken place between the spouse at the house of the applicant. It is thus, apparent that the initial incident had taken place at the house of the applicant when the complainant came there to meet her son.

7 So far as other allegations are concerned, it reveals that the complainant has given instances about the harassment and ill-treatment since 2008 onwards. In spite repeated allegations are made pertaining to the incident regarding 2008, 2009, 2014 and 2021, no any action was initiated against the applicant. Therefore, considering all these allegations, in my view, nothing will be served by keeping the applicant behind the bars. On the other hand, purpose will be served, if certain conditions are imposed while granting anticipatory bail to the applicant. In this view of the matter, following order is passed :

ORDER

- 1) Application under section 438 of the Code of Criminal Procedure for the grant of anticipatory bail is allowed.
- 2) In the event of arrest of the applicant **Taufique Khan s/o Habibullah Khan**, in connection with C. R. No. 1121 of 2022, registered with Andheri Police Station for the offences punishable under sections 498-A, 324, 504 and 506 of the Indian Penal Code, he be released on bail, on his executing PR Bond of Rs. 15,000/- (Rupees Fifteen Thousand Only), with one solvent surety in the like amount, on the following conditions-
 - a) The applicant shall attend police station on 14th and 28th day of every month and shall co-operate the Investigating Agency until investigation is completed and charge-sheet is filed.
 - b) The applicant shall not attempt to pressurize the complainant and her family members in any manner nor shall attempt to tamper with the evidence of prosecution in any manner.

c) The applicant shall furnish his proof of residence to avoid the possibility of his absconding.

3) Concerned Police Station be informed accordingly.

4) Anticipatory Bail Application No. 1984 of 2022 is hereby disposed of accordingly.

Sd/-

(R.M. Mishra)

Dt. 09/02/2023

Additional Sessions Judge,
Borivali Div., Dindoshi, Mumbai

Dictated on : 09/02/2023
Transcribed on : 09/02/2023
Checked on : 09/02/2023
Signed on : 09/02/2023

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

10/02/2023 at 4.44 p.m.
UPLOAD DATE AND TIME

Mrs. S.B. Vichare
NAME OF STENOGRAPHER

Name of Judge (with Court room no.)	HHJ R.M. Mishra, City Civil & Sessions Court, Borivali Div., Dindoshi, Mumbai (C.R.No. 04)
Date of Pronouncement of JUDGEMENT/ORDER	09/02/2023
JUDGEMENT/ORDER signed by P.O. on	09/02/2023
JUDGEMENT/ORDER uploaded on	10/02/2023