

MHKO010024222026

**ORDER BELOW EXH.1 IN CRI. BAIL APPLN.NO.598/2026**

(Vishval Yogesh Mehta & Anr. Vs. State of Maharashtra)

1] Perused application and say filed by I.O. and APP. Heard Advocate for applicants and APP for State. First informant appeared sue moto through Advocate, perused her affidavit/reply and heard Advocate of first informant. Perused written notes of arguments filed by Advocate of applicants.

2] This bail application is filed under section 482 of the Bharatiya Nagarik Suraksha Sanhita, (Hereinafter referred as 'BNSS') by applicants in respect of apprehension of their arrest in Crime No.102/2026 registered at Juna Rajwada Police Station for offences punishable under sections 115(2), 85, 351(2), 352, 3(5) of Bharatiya Nyaya Sanhita, 2023 (Hereinafter referred as 'BNS'). First Informant married with applicant No.1 on 29/6/2012, applicant No.2 is mother-in-law of first informant. It is alleged that after marriage she was residing with applicants at Nipani, then to Bibavewadi, Pune. Applicants started demanding her saving amount and money from her father for purchasing house. In September 2012 first informant and applicant No.1 started residing at USA and applicant No.2 resided at Pune for want of VISA. In vacation first informant, applicant used to come at Pune and were residing with applicant No.2. In 2014, first informant got job and she was getting more salary than applicant No.1, on that ground applicant No.1 abused, beat her, quarreled with her with trifle reasons and was harassing her. She told about same to applicant No.2 who supported applicant No.1 and asked first informant to adjust. In October 2017 first informant and applicant No.1 went at Miami in USA, in one club, applicant No.1 behaved in obscene manner with other girls. In 2018, first informant visited marriage counselor at USA and disclosed about mental and physical harassment by applicant No.1. Applicant No.1 has not co-operated

in counselling process. Thereafter both applicants asked first informant to bring money from her father and from her savings account as amount of Rs.1.5 Crores was required for purchasing house. At that time they refused to record name of first informant to property, abused, insulted and threatened her. In 2021 first informant was pregnant and applicant No.1 did not take her care in pregnancy, insulted her, in March 2022 she gave birth to baby boy. Applicant No.1 used to come late to house and was insulting her. In January 2024 first informant called her parents in USA and they all returned to India with her baby. Since then she is residing with her parents in India. In 2025 applicant No.1 came to India, both applicants went to house of parents of first informant, asked her to go with them otherwise threatened to take their child with them. Applicant No.1 doubted on her character and sent E-mail to her about those allegations. Again applicant No.1 came to Kolhapur from USA and made phone call to first informant on 19/10/2025, gave similar threats. Therefore she lodged report against applicants about their harassment since August 2012 to October 2025.

3] According to applicants, they are falsely implicated in this case. They never committed alleged offences. There is inordinate delay in lodging report and FIR is filed with mala fide intention. In January 2024 first informant came at Kolhapur with their son and never went back to USA. Father of first informant informed applicant No.1 that they proposed to file mutual divorce petition and threatened him to sign its draft. On 1/4/2025 applicant No.1 received draft for divorce by mutual consent on his E-mail from first informant. As their son was merely two years old, applicant No.1 was constrained to revise that draft and it was shared by him to first informant on 20/4/2025. No response was received by first informant and then FIR was filed to pressurize applicant No.1 to agree to settle terms proposed by first informant. Applicants were not aware of FIR till 8/6/2026 when copy of notice dt. 18/3/2026 addressing them to remain present in Juna Rajawada Police Station for the purpose of investigation was pasted outside door of house of applicant No.2 at Pune. Dispute is purely matrimonial in

nature, applicant No.1 and first informant lived happy married life for 12 years. Since 2012 first informant never filed any complaint either with Authority in USA or in Kolhapur. So there is unexplained delay. Allegations attributed to applicant No.2 are baseless. Applicant No.1 is 43 years old and is Programme Manager in TMG Construction and resident of USA. Applicant No.2 is housewife and residing at Pune. They have no criminal antecedents. Due to levelling of offences p/u/s. 85, 115(2), 3(5) etc. of BNS there is apprehension in their mind about their arrest. They are ready to abide conditions and they prayed to grant protection u/s. 482 of BNSS.

4] APP, I.O. and first informant objected application on the grounds that investigation is going on. There are allegations of mental, physical ill-treatment and harassing of first informant by applicants for purchasing flat by demanding amount. Applicant No.1 doubted on her character, abused, insulted and threatened her, applicant No.2 supported behaviour of applicant No.1. After registration of offence, applicants were not found at their address. For service of notice u/s. 35 (3) of BNSS applicant No.2 was contacted on mobile by police but she blocked them. Applicants avoided service of notice. They failed to appear before police though period of 2 months expired on 15/6/2026. Therefore there is possibility of tampering prosecution evidence and applicants are not co-operating during investigation. Considering allegations, nature of offence, they prayed to reject application.

5] Allegations against applicants are serious. From statement of First informant role attributed to applicants can be gathered. It is undisputed fact that marriage between first informant and applicant No.1 was solemnized on 29/6/2012. There are allegations that since August 2012 till October 2025, applicants No.1 and 2 abused, threatened, mentally and physically harassed first informant, by demanding money to her and her parents for purchasing flat. Applicant No.1 doubted character of first informant and they both threatened her to hand over custody of child to them. Advocate of applicants submitted that all these allegations are baseless. Actually

applicants never committed such type of offences and they were not aware of FIR till 8/6/2026. On 17/3/2025 father of first informant informed applicant No.1 about proposal of divorce by mutual consent between applicant No.1 and first informant and he threatened applicant No.1 to sign the draft as per terms proposed by first informant, it was shared via WhatsApp on 1/4/2025 and applicant No.1 revised that draft and shared with it first informant on 20/4/2025.

6] Advocate of applicants filed copy of FIR, affidavit of applicant No.1 dt. 24/10/2025, E-mail about draft, revised draft of divorce by mutual consent, documents showing payment of fees, about education of first informant by applicant No.1, letter by Women Cell, Kolhapur dt. 20/1/2026, travel history with photos. APP and Advocate of first informant submitted that there was mental and physical cruelty to first informant by both applicants by demanding money for purchase of house and after registration of offences applicants are not found on address of residence, they are avoiding service of notice, after it was pasted, they did not co-operate in investigation. Considering allegations custodial interrogation with them is necessary.

7] Advocate of first informant relied on authorities cited in (i) **Arnesh Kumar Vs. State of Bihar and Anr. Reported in 2014 AIR (SC) 2756** in which it is observed by Hon'ble Apex Court that provisions of Section 498 of IPC are used as weapons rather than shield by disgruntled wives. Provisions of Section 41, 41(1)(b), 167 of Cr.P.C. are discussed. In anticipation of arrest in case of demand of dowry, directions to prevent unnecessary arrest are given to Police Officers along with the Magistrates. It is held that Police Officers do not arrest accused unnecessarily and Magistrate do not authorised detention casually and mechanically. Directions given to ensure prevention of unnecessary arrest by police officers. It would be prudent for police officer that no arrest is made without reasonable satisfaction reached after some investigation as to the genuineness of allegations. Magistrate must be satisfied that arrest by police officer is legal and complies with Section 41 of Cr.P.C.. Arrest should not be made routinely or merely because offence is

cognizable and non-bailable. Police officer shall forward check list duly filed and furnish the reasons and materials which necessitated the arrest, while forwarding accused before Magistrate etc.

(ii) **Ayub Pasha and Ors. Vs. State of Karnataka reported in 2011 GoJuris (KAR) 3948**, in which offences p/u/s. 498-A, 506 r/w. 34 of IPC, Sec. 3 and 4 of Dowry Prohibition Act were levelled. It is alleged that within few months petitioners treated complainant with cruelty, demanded dowry to purchase the house, two wheeler and for business. Petitioners were not available for investigation so it is held that anticipatory bail cannot be granted.

(iii) **Rajesh Kumar Vs. State of Maharashtra reported in 2000 GoJuris (BOM) 671** in which offences p/u/s. 498-A, 406, 504, 506(2) of IPC, Sec. 3 and 4 of Dowry Prohibition Act were levelled. Applicant was an officer of rank of Assistant Commissioner in Central Excise Department and was expected to behave with complainant in a decent and civilized manner, instead he treated her in a beastly manner therefore it is observed by Hon'ble Bombay High Court that it is proper to refuse anticipatory bail.

8] Ratios laid down in above cited rulings are noted and considered. Advocate of applicants also argued about guidelines of Hon'ble Apex Court in Arnesh Kumar Vs. State of Bihar cited supra. If facts of this case are considered then after marriage for about considerable period i.e. since June 2012 to January 2024, first informant and applicant No.1 co-habited, out of wedlock first informant delivered male child in March 2022. Various instances and incidents are mentioned in FIR which happened since August 2012. However prima facie there was no complaint application, NC report filed by her for more than 10 years when there are allegations of demand of money since August 2012. It appears that in April 2025 there was sharing of draft of divorce by mutual consent by first informant and applicant No.1. As per stated by applicant No.1 he was constrained to revise the draft. Moreover Advocate of applicants submitted that there are contrary averments in FIR and draft of mutual consent prepared by first informant.

9] In police papers there are statements of first informant, her parents, station diary entries, complaint application of first informant dt. 31/10/2025, letter of applicant No.1 to first informant, messages sent by him etc. About incidents which took place since August 2012 till 19/10/2025, report is filed on 10/3/2026. Advocate of first informant emphasized on evading notice u/s. 35(3) of BNSS and non-co-operation of applicants. Advocate of applicants emphasized that applicants recently learnt about FIR and they are ready to co-operate in investigation. Prima facie recently there is some difference of opinion between first informant and applicant No.1 about terms and conditions of settlement by way of divorce by mutual consent. Due to all above aspects, custodial interrogation with applicants is not required. Apprehension in their mind is reasonable. Applicant No.1 is 43 years old, working as Programme Manager and resident of USA. Applicant No.2 is housewife and residing at Pune. They have no criminal antecedents. In view of allegations, if certain strict conditions with attendance and co-operation during investigation are imposed, it will suffice the purpose. Therefore following order is passed.

ORDER

- 1] Application is allowed.
- 2] In the event of arrest in C.R. No.102/2026 registered at Police Station, Juna Rajwada applicants No.1) Vishval Yogesh Mehta, 2) Veena Yogesh Mehta, be released on executing P.R. bond of Rs.50,000/- each with one surety each in the like amount.
- 3] Applicants shall not tamper the prosecution evidence in any manner.
- 4] Applicants No.1 and 2 shall attend concerned police station between 11.00 a.m. to 2.00 p.m. once in a 15 days till filing of charge-sheet.
- 5] Applicants shall not threat, pressurize first informant and prosecution witnesses.
- 6] Applicant shall co-operate investigating machinery by providing necessary information, documents, as and when required.
- 7] Inform to concerned Police Station accordingly.

- 8] Since the bail application is filed online, separate physical copy of this order is not maintained. All concerned to act upon digitally signed copy of this order uploaded online.

Date -02/07/2026.

[Smt. R. V. Adone]
Additional Sessions Judge,
Kolhapur.

Certificate

“ I affirm that the contents of the P.D.F. File order are same word for word as per original order.

Sd/-
[A.A.Patil]
(Stenographer G-1)