

MHCC050035802022



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

ANTICIPATORY BAIL APPLICATION NO.1055 OF 2022

(C. R. No.646/2022 of Charkop Police Station)

IN

(CNR NO.MHCC05-003580-2022)

- | | | | |
|---|--|---|-------------------|
| 1 | Mr. Sher Shabir Khan |] | |
| | Age - 44 years, Occ.-Business |] | |
| | R/o Room No. 557, Sheru Nisha Chawl, |] | |
| | Haji Bapu Road, Near Govind Nagar |] | |
| | School, Malad (East), Mumbai 400 097. |] | ...Applicant No.1 |
| | |] | |
| 2 | Mr. Mosin Rasul Khan |] | |
| | Age - 31 years, Occ.-Business |] | |
| | R/o Plot No.67, New Collector |] | |
| | Compound, Near Rose Mary School, |] | |
| | Gate - 7, Malwani, Malad (East), |] | ...Applicant No.2 |
| | Mumbai - 400 095. |] | |
| | |] | |
| 3 | Mrs. Aysha Anwar Shaikh |] | |
| | Age - 55 years, Occ.- Housewife, |] | |
| | R/o Plot No.67, New Collector |] | |
| | Compound, Abdul Hamid Road, Gate -7, |] | |
| | Malwani, Malad (East), |] | ...Applicant No.3 |
| | Mumbai - 400 095. |] | |

Versus

State of Maharashtra,	]	
(Through Charkop Police Station)	]	...Respondent

Ld. Adv. Ashok Shukla for applicant.
APP Usha Jadhav for State.

**CORAM : SHRI M.I. LOKWANI,
Additional Sessions Judge,
Court Room No.10.**

Date : 15th July, 2022

ORAL ORDER

This anticipatory bail filed by applicants namely, **applicant No.1 Mr. Sher Shabir Khan, applicant No.2 Mr. Mosin Rasul Khan and applicant No.3 Mrs. Aysha Anwar Shaikh** under Section 438 of the Code of Criminal Procedure 1973, for granting anticipatory bail in connection with Crime No.646/2022 registered with Charkop Police Station for the offence punishable under Sections 365, 342, 323, 504, 506(2) r/w 34 of the Indian Penal Code.

The brief facts of the prosecution case are as under :

2 It is alleged by the Complainant Smt. Afsana Allauddin sayyed that her marriage took place with accused No.1 Akbar Mohammed Shabbir Shaikh on 11/5/2011. Out of wedlock, she has two children, Afan Shaikh and Arhan Shaikh. Accused No.1 has doubt on her or suspects her. Complainant acquainted with Vishal Rohit Nagraj in 2019, at the place of her father-in-law where she lives with her husband. Her husband used to harass her frequently and beat her under influence of alcohol. Meanwhile, Complainant fall in love with Vishal Rohit Nagraj. In the year 2020, Complainant residing separately from her husband and started to live with her parents house. After that,

Complainant decided to stay with Vishal Rohit Nagraj. On 28/5/2022, Complainant started to stay with Vishal Rohit Nagraj. On 21/6/2022 at about 11.30 p.m. when Complainant went to Bhumi Park, Charkop, Kandivali, Mumbai at icecream parlor, while eating faluda, suddenly applicants and her husband came there and started to beat her and Vishal Rohit Nagraj by fists and kick blows. Complainant's husband became angry that she was having affair with Vishal Rohit Nagraj. Applicant Nos.1 and 2 are the brothers of her husband. Applicant No.3 is the friend of her mother-in-law. She also beat the Complainant by hand. Applicants took the Complainant and Vishal Rohit Nagraj and confined them for an hour and gave threat to kill them. However, Complainant escape from that place and approached to the Charkop Police Station and narrated above facts by which Crime No.646/2022 under Sections 365, 342, 323, 504, 506(2) r/w 34 of the Indian Penal Code registered against the applicants and the husband of the Complainant.

3 Advocate of the applicants submitted that applicants are innocent and falsely implicated in this crime. Complainant has extra marital affairs and she is in live-in-relationship. The allegations made against them are false. Applicants are ready to abide any conditions imposed upon them. Lastly, prayed for allow the application.

4 Learned APP raised strong objection in view of reply Exh.3. It is submitted that if the applicants released on bail, there is possibility to cause disturbance in the Society due to issue of Hindu- Muslim religion. There is also possibility that applicants will pressurize the

Complainant and will try to destroy the material evidence. There is also possibility that applicants will flee away from justice or abscond. Hence, prayed for rejection of anticipatory bail application.

6 Considering the above submissions of both sides and gone through records, it appears that there is matrimonial dispute between Complainant and her husband. At one hand, there are allegations against the Complainant that she is having extra marital affairs with Vishal Rohit Nagraj and they stay together in live-in-relationship. On the other hand, allegations against the applicants that they wrongfully confined the Complainant and Vishal Rohit Nagraj by abducting them and also gave threat to kill them. From record it appears that the main accused Akbar Mohammed Shabbir Shaikh is in judicial custody. It appears that applicants are absconded since lodging of report. The accusation made against the applicants are serious in nature. They played active role in present crime. Therefore, their custodial interrogation is imperative to facilitate the investigation. If they released on bail, there is possibility to pressurize the Complainant and prosecution witnesses. There is also possibility that applicants will flee away from justice or abscond. Such possibility can be ruled out. In view of the aforesaid reasons, there is no case to use discretion to grant anticipatory bail in favour of the applicants. Hence, I proceed to pass following order-

ORDER

Anticipatory Bail Application No.1055 of 2022 filed by the applicants, namely, **applicant No.1 Mr. Sher Shabir Khan, applicant No.2 Mr. Mosin Rasul Khan and applicant No.3 Mrs. Aysha Anwar Shaikh** in connection with Crime No. 646/2022, registered at Charkop Police Station for the offence punishable under Sections 365, 342, 323, 504, 506(2) r/w 34 of the Indian Penal Code is hereby rejected and disposed of accordingly.

Dictated and pronounced in open Court.

Dt. 15/07/2022

(M. I. LOKWANI)
Additional Sessions Judge,
Borivali Div., Dindoshi, Mumbai

Dictated on : 15/07/2022
Transcribed by steno on : 15/07/2022
Checked & Signed by HHJ on : 18/07/2022

CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.” UPLOAD DATE AND TIME 18.07.2022 AT 7.00 p.m. NAME OF STENOGRAPHER Mrs. P. P. Dabholkar	
Name of Judge (with Court room no.)	HHJ Shri M.I. Lokwani, City Civil & Sessions Court, Borivali Div., Dindoshi. (C.R.No.10)
Date of Pronouncement of JUDGEMENT/ORDER	15/7/2022
JUDGEMENT/ORDER signed by P.O. on	18/7/2022
JUDGEMENT/ORDER uploaded on	18/7/2022