

MHCC050012742021



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

ANTICIPATORY BAIL APPLICATION NO. 365 OF 2021

IN

(C. R. No. 59 of 2021 of Malvani Police Station)

Mr. Wilfred S/o Jeanette Pereira,
Age: 26 years,
Residing at: Plot No.16/3/3, Bhawani
Nagar, Near Pallotti Church, Marol
Maroshi Road, Andheri (East),
Mumbai-400059.

..Applicant.

V/s

**The State of Maharashtra (Through
Malvani Police Station)**

..Respondent.

Ld. Adv. Mr. Gopal Pandey, for the applicant.
None for respondent.

**CORAM : SHRI L.S. CHAVAN,
ADDITIONAL SESSIONS JUDGE,
COURT ROOM NO.10.**

DATE : 10th March, 2021

ORAL ORDER

This is an application filed by the applicant under Section 438 of the Code of Criminal Procedure 1973, for granting anticipatory bail in connection with Crime No.59/2021 registered with Malvani Police Station for the offence punishable under Sections 326, 323,

504, 506(2), 427 r/w 34 of the Indian Penal Code.

2. The factual matrix of the prosecution case is that, on 19.01.2021 at 3.30 pm the applicant alongwith his parents and brother destroyed the tin shed of the complainant and erected their compound of bamboo sticks. The complainant went to ask the reason of destroy of tin shed that time, the applicant and his parents abused her. The father of the applicant assaulted her with iron rod on her left hand. When the brother of complainant came to intervene the quarrel that time, the father of applicant assaulted him with iron rod on his hand and mouth. The applicant and his brother hold him from the back side. Due to assault by the applicant and his parents, the brother of complainant had sustained the bleeding injury and his teeth was fallen. Thereafter, their friend namely Indu came there to separate the quarrel that time, the applicant gave blow of knife on her left hand. Therefore, the complainant lodged the report to the Malvani Police Station against the applicant and others. On the basis of report of complainant, Crime No. 59/2021 came to be registered against them for the offence punishable under Sections 326, 323, 504, 506(2), 427 r/w 34 of the Indian Penal Code.

3. The learned advocate for the applicant argued that, the applicant is falsely implicated in the abovesaid crime by the complainant. The present FIR is nothing but, the counter blast to the various complaint filed by the mother of applicant. The co-accused are released on bail. No specific role has been assigned by the applicant. Nothing is to be recovered from him. Therefore, his custodial interrogation is unwarranted. Hence, requested for granting

anticipatory bail to the applicant.

4. Per contra, the respondent by filing the reply Exh.2 strongly opposed for granting anticipatory bail by contending that, since the date of incident, the applicant is absconded. He has assaulted the witness by means of knife on her left hand and caused grievous hurt. The gravity of offence is serious. If, he released on anticipatory bail then there is possibility to pressurize the complainant and witnesses. Hence, requested for rejecting the application.

5. In view of the rival submission of both the sides and on perusal of FIR, it is seen that, both parties are residing adjacent to each other. There is a dispute between them on account of the premises. There are counter cases filed by them against each other. The complainant and witnesses are discharged from the hospital. They are not indoor patients in the hospital. The main accused is already released on bail. Considering the nature of allegation against the applicant and the role assigned by him, his custodial interrogation is not required. He is ready to cooperate the Investigating Officer. Therefore, it would be proper to grant him the anticipatory bail. The apprehension of the prosecution is that, the applicant will pressurize the complainant and witnesses. But, the said care can be taken by imposing appropriate condition. Hence, I pass following order.

ORDER

1. The Anticipatory Bail Application No.365/2021 is hereby allowed.
2. In the event of arrest of the applicant namely **Mr. Wilfred S/o Jeanette Pereira**, be released on bail on executing P.R. Bond of

Rs. 25,000/- (Rupees Twenty Five Thousand only) with one or two sureties of like sum in connection with Crime No. 59/2021 registered with Malvani Police Station for the offence punishable under Sections 326, 323, 504, 506(2), 427 r/w 34 of the Indian Penal Code on following conditions-

- i) He shall attend the Malvani Police Station on every Sunday from 10.00 am to 01.00 pm till filing of charge-sheet.
- ii) He shall not pressurize the complainant and witnesses.
- iii) He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade him from disclosing such a fact to the court or to any police officer.
- iv) He is directed to furnish his proper local & native address and his contact numbers to the Malvani Police Station.
- v) Inform to the Malvani Colony Police Station.

3. The Anticipatory Bail Application No.365/2021 stands disposed of accordingly.

Dt. 10/03/2021

(L.S. CHAVAN)
Additional Sessions Judge,
Borivali Div., Dindoshi, Mumbai

Dictation given directly on computer on : 10/03/2021
Checked & Signed by HHJ on : 10/03/2021

CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.”	
11/03/2021 at 02.30 pm. UPLOAD DATE AND TIME	Mrs. J.S. Gawai NAME OF STENOGRAPHER
Name of Judge (with Court room no.)	HHJ Shri L.S. Chavan, City Civil & Sessions Court, Borivali Div., Dindoshi. (C.R.No.10)
Date of Pronouncement of JUDGEMENT/ORDER	10/03/2021
JUDGEMENT/ORDER signed by P.O. on	10/03/2021
JUDGEMENT/ORDER uploaded on	11/03/2021