

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.3091 OF 2022**

Kailash Sundarlal Kothari .. Applicant
Versus
The State of Maharashtra .. Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO.3092 OF 2022**

Indu Kailash Kothari .. Applicant
Versus
The State of Maharashtra .. Respondent

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Mr.C.K.Pendse with Ms.Siddhi Bhosale and Mr.Jayesh Wani for the Applicants.

Ms.A.A.Takalkar, A.P.P. for the State/Respondent.

PI Satish S. Rathod, EOW, Thane, present.

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**CORAM: BHARATI DANGRE, J.
DATED : 10th NOVEMBER, 2022**

P.C:-

1. When the learned A.P.P. is asked to offer justification for invoking Section 409 of IPC, she is instructed by the Investigating Officer that a notice shall be issued to the applicant in the two applications under Section 41A of Cr.P.C. She states that the Investigating Officer is not very sure,

whether offence under Section 409 of IPC has been made out and considering the other Sections which are invoked, being Sections 406, 420 read with Section 34 of IPC, the Investigating Officer shall follow the mandate prescribed under Section 41A of Cr.P.C. A statement is made that notice shall be issued within seven days from today.

Pursuant to which, the applicants shall appear before the Investigating Officer within a further period of seven days.

2. Upon the applicants appearing before the Investigating Officer, he shall follow the mandate set out under Section 41A of Cr.P.C. and shall record reasons in writing, in case, he comes to the conclusion that the arrest is necessary. Before effecting the arrest for the purpose of custodial interrogation, he shall serve 72 hours notice to the applicants.

3. With the aforesaid direction, the applications stand disposed off.

(SMT. BHARATI DANGRE, J.)