

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 3453 OF 2023

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1. Abdullah Shamsul Huda Khan
2. Shamsul Huda Sayed Ali Khan
3. Hasina Khatoon Shamsul Huda Khan
4. Sofia Mohd Akeel Khan
5. Samiullah Shamsul Huda Khan ...Applicants

Versus

The State of Maharashtra ...Respondent

Mr. S. K. Ali, a/w Shabi Fatma, Pratibha Gupta, Ali Hasan,
i/b A. A. Siddique, for the Applicants.
Smt. Ashwini Takalkar, APP for the State/Respondent.

**CORAM: N. J. JAMADAR, J.
DATED: 13th DECEMBER, 2023**

ORDER:-

1. Heard the learned Counsel for the applicants and the learned APP for the State.

2. This is an application for pre-arrest bail in connection with CR No.1039 of 2023, registered with Sakinaka Police Station, Mumbai, for the offences punishable under Sections 354, 498-A, 323, 504 and 506 read with Section 34 of the Indian Penal Code, 1860 ("the Penal Code").

3. The marriage of the first informant was solemnized with applicant No.1 in the year 2014. The first informant lodged a

report with the allegation that applicant No.1 and applicant Nos.2 to 5, who are the relatives of applicant No.1, had subjected her to cruelty. The applicants allegedly raked up quarrel with the first informant on trivial issues. As regards applicant No.2, who is the father-in-law of the first informant, it was alleged that the acts and conduct of applicant No.2 were such as to outrage the modesty of the first informant.

4. The learned Counsel for the applicants submitted that the learned Additional Sessions Judge has rejected the application on 6th December, 2022. However, reasoned order is yet not made available. It was submitted that the first informant has been residing separately from the applicants since April, 2022. Bald allegations have been made to implead all the family members of the husband of the first informant. In fact, on 2nd March, 2023 the applicants had lodged a complaint expressing apprehension of false implication.

5. The learned APP resisted the prayer for pre-arrest bail.

6. I have perused the allegations in the application and FIR. *Prima facie* it appears that the first informant and applicant No.1 were married prior to nine years. The first informant had been residing at her parental home since

April, 2022. There are general and omnibus allegations of matrimonial cruelty. The allegation of outraging the modesty of the first informant qua applicant No.2 *prima facie* appears to be vague and lack element of certainty. In any event, custodial interrogation of the applicants is not warranted to facilitate further investigation. I am, therefore, impelled to allow the application.

7. Hence the following order:

: O R D E R :

- (i) In the event of arrest of the applicants in CR No.1039 of 2023, registered with Sakinaka Police Station, Mumbai, the applicants be released on bail on furnishing a PR Bond in the sum of Rs.30,000/- with one or two sureties in the like amount, each.
- (ii) The applicants shall cooperate with the investigation and attend Sakinaka Police Station on 24th and 25th December, 2023 in between 10.00 am. to 1.00 pm. and, thereafter as and when directed.
- (iii) The applicants shall not tamper with the prosecution evidence and/or give threat or inducement to the first

informant or any of the persons acquainted with the facts of the case.

- (iv) The applicants shall regularly attend the proceedings before the jurisdictional Court.
- (v) It is clarified that these *prima facie* observations are confined to determine entitlement to pre-arrest bail only.

Application stands disposed.

[N. J. JAMADAR, J.]