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

ANTICIPATORY BAIL APPLICATION NO. 1082 OF 2026

Shadab Ahsan Ahmed Khan : Applicant.

Versus.

The State of Maharashtra & Anr. : Respondents.

Mr. Khatri Mohamed Adil a/w Nazneen Khatri for the Applicant.

Ms. Anagha Deshmukh, APP for the Respondent/State.

Mr. Francis Caszo for the Respondent No.2.

PSI Archana S Khaladkar, D. N. Nagar Police Station, present.

CORAM : ASHWIN D. BHOBE, J.

DATED : 28 APRIL 2026

PC:-

1. By the present Application filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the Applicant seeks pre-arrest bail on the apprehension of arrest in FIR No. 898 of 2023 (FIR), dated 20th November 2023, registered with the D. N. Nagar Police Station, for offences punishable under Sections 498A, 323, 504, 506, and 34 of the Indian Penal Code, and Sections 3 and 4 of the Muslim Women (Protection on Rights on Marriage) Act, 2019.

2. Upon completion of the investigation in the FIR, a charge sheet has been filed, culminating in proceedings bearing Police Crime No. 898 of 2023, which case is pending before the Court of the Judicial Magistrate First Class, 10th Court, Andheri, Mumbai (Magistrate).

3. Ms. Anagha Deshmukh, learned APP for the Respondent/State, submits that it is on account of the absence of the Applicant that initially a Non-Bailable Warrant was issued against the Applicant and consequently, a proclamation under Section 82 of the Criminal Procedure Code is issued.

4. Mr. Adil Khatri learned Advocate for the Applicant, on instructions from the Applicant, states that the Applicant is working in the United Arab Emirates (UAE). He states that he travelled to the UAE well before the registration of FIR No. 898 of 2023. He states that since the date of registration of the FIR, the Applicant has not returned to India. He states that the Applicant is employed in the UAE . He states that the Applicant was not served with any summons or any bailable or non-bailable warrant in UAE. He submits that the Applicant's absence from the country resulted in the issuance of a non-bailable warrant and consequently, a proclamation under Section 82 of the Criminal Procedure Code.

5. Mr. Adil Khatri learned Advocate for the Applicant, on specific instructions from the Applicant, states that the Applicant intends to come to India to face the proceedings bearing Police Crime No. 898 of 2023, as well as another

proceeding filed by the complainant under the Domestic Violence Act, bearing No. DV/35/2024, both of which are pending before the Magistrate. Again, on instructions from the Applicant, he states that the Applicant will appear before the Magistrate in both proceedings on the next scheduled date in the matters. He further states that the next date in P.C. No. 898 of 2023 is 20th June 2026. Mr. Adil Khatri, learned Advocate for the Applicant, undertakes to remain present before the Magistrate and to take steps in terms of law in respect of the proclamation/NBW. He states that the Applicant will regularly appear before the Magistrate in both the above-referred proceedings. He submits that the Applicant has no intention of avoiding any proceedings.

6. Ms. Anagha Deshmukh, learned APP for the Respondent/State, submits that the subject matter of the impugned FIR and the charge-sheet is a matrimonial dispute between the Applicant and Respondent No.2. She submits that, in view of the undertaking given by Advocate Mr. Adil Khatri, on the instructions and on behalf of the Applicant, to subject the Applicant himself to the jurisdiction of the Magistrate and to regularly appear in the said proceedings, Respondent No.1 does not object to the request for bail. To clarify, she submits that the entire purpose of the issuance of NBW and the consequent proclamation was to secure the Applicant's presence before the Court of the Magistrate so that he faces the trial. She on instructions, submits that the Applicant is not required to undergo custodial interrogation in

the FIR. She submits that in addition to the Applicant's undertaking, Respondent No.1 would require the Applicant's presence at the Police Station for further investigation.

7. Mr. Adil Khatri, learned Advocate for the Applicant, again on instructions, states that the Applicant is ready to abide by all conditions that may be deemed fit and proper for the grant of pre-arrest bail. He states that the Applicant would appear before Respondent No.1 as and when required by the Investigating Officer and would cooperate with the investigation of the FIR.

8. Mr. Francis Caszo learned Advocate for the Respondent No.2 (Complainant), states that the Respondent No.2 is interested in ensuring that the proceedings bearing P.C. No. 898 of 2023 and the Domestic Violence proceedings bearing No. DV/35/2024, pending before the Magistrate, are taken to their logical end without any delay. He further submits that the statements made by Advocate Mr. Adil Khatri, on the instructions and on behalf of the Applicant, be accepted and that appropriate conditions be imposed for the grant of pre-arrest bail.

9. A perusal of the FIR and the documents produced on record by the Applicant prima facie indicates a matrimonial conflict between the Applicant and the Respondent No.2, which is the subject matter of the criminal proceedings. This fact is also borne out by paragraph no. 7 of the Advocate's

notice sent on behalf of the Respondent No.2 to the Applicant (at page 104 of the paper book of the Application).

10. It appears that the Applicant's absence from the country resulted in the issuance of a non-bailable warrant and subsequently, a proclamation under Section 82 of the Criminal Procedure Code.

11. At the request of Ms. Anagha Deshmukh, learned APP and Mr. Francis Caszo learned Advocate for the Respondent No.2, the statements made by Mr. Adil Khatri, that the Applicant shall regularly appear in both the proceedings (i.e. P.C. No. 898 of 2023 and case No. DV/35/2024) pending before Judicial Magistrate First Class, 10th Court, Andheri, Mumbai are taken on record and accepted.

12. Mr. Adil Khatri, on instructions from the Applicant states that the Applicant shall appear the Magistrate in case bearing P.C. No.898 of 2023 on 20 June 2026 and all subsequent dates that may be fixed unless exempted from personal appearances.

13. The Hon'ble Supreme Court in the case of *Asha Dubey Vs. The State of Madhya Pradesh*¹ in paragraph Nos. 8, 9 and 10 has observed as follows :-

8. Coming to the consideration of anticipatory bail, in the event of the declaration under Section 82 of the Cr.PC., it is not as if in all cases that there will be a total embargo on considering the application for the grant of anticipatory bail.

¹ Criminal Appeal No.4564 of 2024 (SLP (Crl) No.13123 of 2024.

9. When the liberty of the appellant is pitted against, this Court will have to see the circumstances of the case, nature of the offence and the background based on which such a proclamation was issued. Suffice it is to state that it is a fit case for grant of anticipatory bail, on the condition that the appellant shall cooperate with the further investigation. However, liberty is also given to the respondents to seek cancellation of bail that has been granted, in the event of a violation of the conditions which are to be imposed by the Trial Court or if there are any perceived threats against the witnesses.

10. Accordingly, the impugned order stands set aside and the appellant is granted anticipatory bail, subject to the terms and conditions that may be imposed by the Trial Court.

14. Considering the above facts, the submissions of Ms. Anagha Deshmukh learned APP, and Mr. Francis Caszo learned Advocate for Respondent No. 2, the nature of the dispute and the allegations made against the Applicant, the custodial interrogation of the Applicant in the present crime is not required, more so in view of the statements and the undertaking given by Advocate Mr. Adil Khatri on the instructions and on behalf of the Applicant.

15. In view of the above, this Application is allowed on the following terms :-

- (a) In the event of arrest of the Applicant in FIR bearing No.898 of 2023 dated 20 November 2023 registered with the D. N. Ngar Police Station, the Applicant shall be released on bail on furnishing a PR bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two local sureties in the like amount.

- (b) Applicant shall report to the Investigation Officer of D. N. Ngar Police Station on 2nd Saturday of every month between 11.00 am to 12.00 pm., commencing from the month of July 2026. In the event the Applicant is required on any other day, by the Investigating Officer, the Applicant shall ensure his presence before the Investigating Officer.
- (c) Applicant shall not directly or indirectly make any inducement, threat or promise to any person/s acquainted with the facts of the case to dissuade such person/s from disclosing the facts to the Court or any police officer.
- (d) Applicant shall not tamper with evidence in any manner.
- (e) Applicant shall provide the Investigation Officer with his residential address along with proof, his contact number, email and must inform the Investigating Officer of any changes to this information from time to time.
- (f) Applicant shall cooperate with the Investigating Officer in the process of investigation of the present Crime.
- (g) The Applicant shall regularly attend and appear before the Judicial Magistrate First Class, 10th Court, Andheri, Mumbai, on each date fixed in the

proceeding bearing P.C. No. 898 of 2023 and in the proceeding bearing DV/35/2024, pending on 20 June 2026, unless specifically exempted by the Magistrate.

16. Mr. Adil Khatri and Mr. Francis Caszo, on instructions from the Applicant and the Respondent No.2, state that the parties intend to amicably resolve the matter and they would be requesting the Magistrate to refer the parties to mediation. The Applicant and the Respondent No.2 are at liberty to make an appropriate application before the Magistrate to explore the possibility of an amicable resolution.

17. Anticipatory Bail Application No.1082 of 2026 is disposed of.

(ASHWIN D. BHOBE, J.)