

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

ANTICIPATORY BAIL APPLICATION NO. 1192 OF 2022

Rohan Khanna

..Applicant

v/s.

The State of Maharashtra .

..Respondents

Mr. Vedchetan Patil a/w. Sunayana Kashid for the Applicant.

Mrs. A.A.Takalkar, APP for the State.

**CORAM : ANUJA PRABHUDESSAI,J.
DATED : 29th APRIL, 2022.**

P.C.

1. This is an application for transit bail apprehending arrest in crime registered pursuant to the FIR lodged by /or likely to be lodged by Vijay Chopra, Vinod Chopra, Parul Chopra, Taruna Chopra, being the father in law and sisters in law of the Applicant.

2. Heard Mr. Patil, learned Counsel for the Applicant and Mrs. Takalkar, learned APP for the State. I have perused the records and considered the submissions advanced by the learned Counsel for the respective parties .

3. The records reveal that there is matrimonial dispute between the Applicant and his wife, and divorce and custody petitions are pending before the Family Court, Bandra. The record reveal that the wife of the Applicant had lodged FIR No.93 of 2022 against an unknown person, alleging that a fake face book profile was created in the name of one

Sherlin Chopra and that some posts/ messages were sent on the said face book account giving phone numbers of the the parents and other relatives of the wife of the Applicant herein. It is stated that pursuant to the said messages/posts, the wife of the Applicant, her mother and other family members received several phone calls, obscene videos, messages etc. Though the crime was against an unknown person, the Applicant claims that he was taken to the police station without any notice and he was subsequently allowed to go without any arrest. The Applicant apprehends that the family members of his wife may file similar complaints at their place of residence at Delhi and Gurgaon, and that he may be apprehended in the said crimes.

4. Learned Counsel for the Applicant has relied upon the decision of the Honourable Supreme Court in ***Gurbaksh Singh Sibbia v. State of Punjab (1980) 2 SCC 565***, wherein it is held that the condition which is to be satisfied before anticipatory bail to be granted is that, there must be reason to believe that he may be arrested for non-bailable offences. It is held that the use of expression ‘reason to believe’ must be that the belief of the applicant that he may be so arrested must be founded on reasonable ground and must capable of being examined by the Court objectively. The Honourable Supreme Court has further held that filing of first information report is not a condition precedent to the exercise of power under Section 438 . The imminence of a likely arrest founded on reasonable belief can be shown to exist even if the FIR is not filed.

5. In the instant case the the marital relationship between the Applicant and his wife is totally strained. The Applicant has placed on record copy of an e-mail allegedly received by him from his wife, wherein she has threatened to send him to jail by filing a fake case of Domestic Violence and by making one phone call. She has also stated that her relatives are lawyers and Judges, and that she can put his life in mess even if he does nothing.

6. Learned Counsel for the Applicant has also placed on record copy of the FIR lodged by the mother of the Complainant, before Chunabhatti Police Station. Considering the aforesaid facts and circumstances, particularly e-mail dated 8.1.2021, in my considered view the apprehension of the Applicant that the family members of the Complainant may lodge FIR either at Delhi or Gurgaon, and that he may be arrested in the said crimes, cannot be said to be unreasonable.

7. Under the circumstances, the Applicant is entitled for transit bail. Hence, in order to enable him to approach the Courts at Delhi and Guragon, for appropriate reliefs, following order is passed:-

(i) In the event of arrest of the Applicant in crimes registered at Delhi or Gurgaon Police Station, pursuant to the FIR lodged by Vijay Chopra, Vinod Chopra, Parul Chopra, Taruna Chopra and Pratik Chopra, in connection with the fake face book account created in the name of

Sherlin Chopra, the Applicant shall be released on transit bail on furnishing bail bond of Rs.25,000/- (Rupees Twentyfive Thousand Only) with one or two solvent sureties in the like amount;

(ii) This order shall remain in force for a period of six weeks. In the meantime, the Applicant shall not interfere with the complainant and the other witnesses in any manner.

PRASANNA P
SALGAONKAR

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signed by
PRASANNA P
SALGAONKAR
Date:
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(ANUJA PRABHUDESSAI, J.)