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Educational Brief

Anticipatory Bail in Anticipation of a Complaint under Sections 85-86, Bharatiya Nyaya Sanhita, 2023

Prepared for: Mr. X (Fictional and Illustrative Character)

Matter: Anticipatory Bail Application under Section 482, Bharatiya Nagarik Suraksha Sanhita, 2023

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This is a sample Educational Brief for a bail-application matter, shown here purely to demonstrate Lexovia's research and drafting quality — not a real customer's case.

The Brief that follows walks through the legal foundation of anticipatory bail part by part, each point backed by a real statute or judgment, followed by the drafted Application itself.

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About This Educational Brief

This Educational Brief accompanies the anticipatory bail application prepared on your instructions. Its purpose is to explain, in plain language, the legal basis for the application, the statutory provisions and judicial decisions that support it, and what can reasonably be expected if the matter proceeds further. It is provided free of charge with every Drafting Order.

Note: Lexovia is a legal drafting and research platform and not a law firm. Nothing in this Brief or the accompanying materials constitutes legal advice or creates an advocate-client relationship. The law is stated below as it generally applies; how it would ultimately apply to your matter depends on the facts as they are proved and on the evidence and submissions a court is asked to weigh, and no particular outcome is predicted or guaranteed.

Every quoted passage below is reproduced exactly as written by the Court, in full and unedited, each with its own source reference. This Brief is organised into four parts. Part A explains the basic legal foundation of anticipatory bail and how long its protection lasts once granted. Part B explains why arrest should not be automatic or mechanical in a complaint of this kind. Part C explains why any conditions attached to bail must be reasonable, not punitive. Part D addresses the position of your parents, who you have told us are also apprehended to be named in the anticipated complaint.

Part A - The Legal Foundation of Anticipatory Bail, and How Long Its Protection Lasts

You have told us that you have reliable information, through common relatives, that Mrs. Y intends to file (or has approached counsel to file) a complaint against you under Sections 85 and 86 of the Bharatiya Nyaya Sanhita, 2023, but that no FIR has yet been registered. This Part explains the legal basis on which a court can grant you protection before any such arrest, and how long that protection would last once granted.

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A.1 - Judgment: Gurbaksh Singh Sibbia v. State of Punjab (Supreme Court, 9 April 1980)

This is the foundational Supreme Court decision on anticipatory bail, decided by a 5-judge Constitution Bench under the erstwhile Section 438 of the Code of Criminal Procedure, 1973 - the direct predecessor of Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, under which your own application is being made. Two separate passages from the Court's own judgment are quoted below, each in full and unedited.

> *“"Section 438(1) of the Code lays down a condition which has to be satisfied before anticipatory bail can be granted. The applicant must show that he has 'reason to believe' that he may be arrested for a non-bailable offence. The use of the expression 'reason to believe' shows that the belief that the applicant may be so arrested must be founded on reasonable grounds. Mere 'fear' is not 'belief', for which reason it is not enough for the applicant to show that he has some sort of a vague apprehension that some one is going to make an accusation against him, in pursuance of which he may be arrested. The grounds on which the belief of the applicant is based that he may be arrested for a non-bailable offence, must be capable of being examined by the court objectively, because it is then alone that the court can determine whether the applicant has reason to believe that he may be so arrested. Section 438(1), therefore, cannot be invoked on the basis of vague and general allegations, as if to arm oneself in perpetuity against a possible arrest. Otherwise, the number of applications for anticipatory bail will be as large as, at any rate, the adult populace. Anticipatory bail is a device to secure the individual's liberty; it is neither a passport to the commission of crimes nor a shield against any and all kinds of accusations, likely or unlikely."”*

Source: Gurbaksh Singh Sibbia and Others v. State of Punjab, 1980 AIR 1632; 1980 SCR (3) 383, at pp. 417-418 (Supreme Court of India, decided 9 April 1980; this is the Court's own text, not the headnote). Source: https://api.sci.gov.in/jonew/judis/4562.pdf

EXPLANATION IN SIMPLE LANGUAGE

In plain terms, the Supreme Court held that you do not need to prove your apprehension of arrest with certainty, but you do need more than a vague, generalised fear - your belief that you may be arrested must be founded on something concrete and reasonably examinable, not merely "someone might accuse me of something."

Paid Add-on **Hindi**

सरल भाषा में स्पष्टीकरण

सीधे शब्दों में कहें तो, सर्वोच्च न्यायालय ने यह माना कि आपको अपनी गिरफ्तारी की आशंका को निश्चितता के साथ सिद्ध करने की आवश्यकता नहीं है, लेकिन आपको एक अस्पष्ट, सामान्य भय से कहीं अधिक की आवश्यकता है - आपका यह विश्वास कि आपको गिरफ्तार किया जा सकता है, किसी ठोस और तर्कसंगत रूप से जांचे जा सकने वाले आधार पर टिका होना चाहिए, न कि केवल इस भावना पर कि "कोई मुझ पर कुछ आरोप लगा सकता है।"

> *“"Thirdly, the filing of a First Information Report is not a condition precedent to the exercise of the power under Section 438. The imminence of a likely arrest founded on a reasonable belief can be shown to exist even if an F.I.R. is not yet filed."”*

Source: Gurbaksh Singh Sibbia and Others v. State of Punjab, 1980 AIR 1632; 1980 SCR (3) 383, at p. 418 (Supreme Court of India, decided 9 April 1980). Source: https://api.sci.gov.in/jonew/judis/4562.pdf

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EXPLANATION IN SIMPLE LANGUAGE

This second passage answers a question you are likely to have: you do not need to wait for an FIR to actually be registered before asking a court for anticipatory bail. It is enough that your apprehension of arrest is reasonable and founded on something concrete, even while the complaint is still only anticipated.

Paid Add-on | Hindi

सरल भाषा में स्पष्टीकरण

यह दूसरा अंश उस प्रश्न का उत्तर देता है जो संभवतः आपके मन में होगा: अग्रिम जमानत के लिए न्यायालय से अनुरोध करने से पहले आपको प्राथमिकी के वास्तव में दर्ज होने की प्रतीक्षा करने की आवश्यकता नहीं है। यह पर्याप्त है कि आपकी गिरफ्तारी की आशंका तर्कसंगत हो और किसी ठोस आधार पर टिकी हो, भले ही शिकायत अभी केवल प्रत्याशित ही क्यों न हो।

APPLICABILITY ON THE CUSTOMER'S CASE

On the facts you have described, both passages apply squarely to your situation. No FIR has yet been registered against you, but you have specific, reliable information (through common relatives) that Mrs. Y intends to file, or has approached counsel to file, a complaint under Sections 85-86 BNS naming you - that is precisely the kind of concrete, reasonable ground the first passage requires, and the second passage confirms you need not wait for the FIR to actually be lodged before seeking this Court's protection now.

Paid Add-on | Hindi

आपके मामले पर प्रयोज्यता

आपके द्वारा बताए गए तथ्यों के आधार पर, दोनों उपर्युक्त सिद्धांत आपकी स्थिति पर पूरी तरह लागू होते हैं। अभी तक आपके विरुद्ध कोई प्राथमिकी (FIR) दर्ज नहीं हुई है, लेकिन आपके पास (साझा रिश्तेदारों के माध्यम से) यह विशिष्ट और विश्वसनीय जानकारी है कि श्रीमती Y आपका नाम लेते हुए Sections 85-86 BNS के अंतर्गत शिकायत दर्ज कराने का इरादा रखती हैं, या इसी उद्देश्य से वकील से संपर्क कर चुकी हैं - यह ठीक वैसा ही ठोस और तर्कसंगत आधार है जिसकी आवश्यकता पहले सिद्धांत में बताई गई है, और दूसरा सिद्धांत यह पुष्टि करता है कि आपको इस न्यायालय से सुरक्षा प्राप्त करने के लिए अभी से प्राथमिकी के वास्तव में दर्ज होने की प्रतीक्षा करने की आवश्यकता नहीं है।

Illustration

A person learns, through a mutual acquaintance who has spoken directly to the complainant, that the complainant has already consulted a lawyer and drafted a complaint naming him under a non-bailable offence, though no FIR has yet been registered. Under the principles set out above, he need not wait for the FIR to be filed - he can approach the Sessions Court for anticipatory bail now, because his apprehension of arrest is founded on a specific, reasonable basis rather than a vague fear.

Paid Add-on | Hindi

उदाहरण

एक व्यक्ति को एक साझा परिचित के माध्यम से, जिसने शिकायतकर्ता से सीधे बात की है, यह पता चलता है कि शिकायतकर्ता पहले ही एक वकील से परामर्श ले चुकी है और एक गैर-जमानती अपराध के अंतर्गत उसका नाम लेते हुए शिकायत का मसौदा तैयार कर चुकी है, हालांकि अभी तक कोई प्राथमिकी दर्ज नहीं हुई है। ऊपर बताए गए सिद्धांतों के अनुसार, उसे प्राथमिकी दर्ज होने की प्रतीक्षा करने की आवश्यकता नहीं है - वह अभी सत्र न्यायालय में अग्रिम जमानत के लिए आवेदन कर सकता है, क्योंकि उसकी गिरफ्तारी की आशंका किसी अस्पष्ट भय के बजाय एक विशिष्ट, तर्कसंगत आधार पर टिकी है।

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A.2 - Judgment: Sushila Aggarwal v. State (NCT of Delhi) (Supreme Court, 29 January 2020)

This 5-judge Constitution Bench decision settles two related questions you are likely to ask once anticipatory bail is granted: does the protection expire after some fixed period, and does it end automatically once the case reaches a later procedural stage, such as a chargesheet or the framing of charge? The two passages below are the Court's own Final Conclusions, each answering one of those questions in turn.

> *""(1) Regarding Question No. 1, this court holds that the protection granted to a person under Section 438 Cr. PC should not invariably be limited to a fixed period; it should inure in favour of the accused without any restriction on time. Normal conditions under Section 437 (3) read with Section 438 (2) should be imposed; if there are specific facts or features in regard to any offence, it is open for the court to impose any appropriate condition (including fixed nature of relief, or its being tied to an event) etc."”*

Source: Sushila Aggarwal and Others v. State (NCT of Delhi) and Another, [2020] 2 S.C.R. 1, Final Conclusions, Answer to Question No. 1, at p. 128 (Special Leave Petition (Criminal) Nos. 7281-7282 of 2017) (Supreme Court of India, decided 29 January 2020; this is the Court's own text, not the headnote). Source: https://scr.sci.gov.in/scrsearch/?p=pdf_search/home/nocaptcha&sel_lang=&app_token=

EXPLANATION IN SIMPLE LANGUAGE

In simple terms, once a court grants anticipatory bail, that protection does not automatically run out after a fixed number of days or weeks. It continues to apply unless a court specifically imposes a time limit or other condition appropriate to the particular case.

Paid Add-on | Bengali

সহজ ভাষায় ব্যাখ্যা

সহজ কথায়, একবার আদালত আগাম জামিন মঞ্জুর করলে, সেই সুরক্ষা নির্দিষ্ট সংখ্যক দিন বা সপ্তাহ পরে আপনা-আপনি শেষ হয়ে যায় না। আদালত যদি নির্দিষ্টভাবে কোনো সময়সীমা বা সংশ্লিষ্ট মামলার উপযোগী অন্য কোনো শর্ত আরোপ না করে, তাহলে এই সুরক্ষা বলবৎ থাকে।

APPLICABILITY ON THE CUSTOMER'S CASE

This matters to you because it means that if the Sessions Court grants you anticipatory bail in respect of the anticipated complaint under Sections 85-86 BNS, that protection would not automatically expire after a fixed period - it would continue unless the granting court itself attaches a specific condition limiting it, or a court later finds good reason to cancel it. Read together with A.1 above, this means the protection you are seeking is not only available to you now, before any FIR, but would also not need to be revisited or re-argued at every later stage of the case once granted. See A.3 below for what this means once the case actually reaches a later procedural stage, such as a chargesheet or the framing of charge.

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Paid Add-on | Bengali

গ্রাহকের মামলায় প্রযোজ্যতা

এটি আপনার ক্ষেত্রে গুরুত্বপূর্ণ, কারণ এর অর্থ হলো, Sections 85-86 BNS-এর অধীনে প্রত্যাশিত অভিযোগের ক্ষেত্রে দায়রা আদালত যদি আপনাকে আগাম জামিন মঞ্জুর করে, তাহলে সেই সুরক্ষা নির্দিষ্ট সময়ের পরে আপনা-আপনি শেষ হয়ে যাবে না — যতক্ষণ না মঞ্জুরকারী আদালত নিজেই তা সীমিত করার জন্য কোনো নির্দিষ্ট শর্ত জুড়ে দেয়, অথবা পরবর্তীতে কোনো আদালত তা বাতিল করার যথাযথ কারণ খুঁজে পায়, ততক্ষণ এই সুরক্ষা বলবৎ থাকবে। উপরের A.1-এর সঙ্গে মিলিয়ে দেখলে, এর অর্থ দাঁড়ায়, আপনি যে সুরক্ষা চাইছেন তা কেবল এফআইআর দায়েরের আগেই এখন আপনার জন্য পাওয়া যায় তা নয়, বরং একবার মঞ্জুর হয়ে গেলে মামলার পরবর্তী প্রতিটি পর্যায়ে তা পুনরায় বিবেচনা বা পুনরায় তর্কবিতর্কের প্রয়োজনও হবে না। মামলাটি প্রকৃতপক্ষে চার্জশিট বা অভিযোগ গঠনের মতো পরবর্তী কোনো প্রক্রিয়াগত পর্যায়ে পৌঁছালে এর অর্থ কী দাঁড়ায়, তা জানতে নিচে A.3 দেখুন।

Illustration

A court grants a person anticipatory bail in a matrimonial dispute complaint, without attaching any condition limiting its duration. Under the principle above, that protection continues to apply through the investigation and any subsequent stage of the case, since the court did not impose a fixed-period condition.

Paid Add-on | Bengali

উদাহরণ

একটি দাম্পত্য বিরোধ সংক্রান্ত অভিযোগে একজন ব্যক্তিকে আদালত আগাম জামিন মঞ্জুর করে, তার মেয়াদ সীমিত করে এমন কোনো শর্ত ছাড়াই। উপরের নীতি অনুযায়ী, সেই সুরক্ষা তদন্ত চলাকালীন এবং মামলার পরবর্তী যেকোনো পর্যায়ে বলবৎ থাকে, কারণ আদালত কোনো নির্দিষ্ট মেয়াদের শর্ত আরোপ করেনি।

A.3 - Same Judgment, Second Conclusion: The Protection Continues Through Later Stages of the Case

The same Constitution Bench, in the same Final Conclusions, separately answered a second, related question: once anticipatory bail is granted, does it end automatically once the case reaches a later procedural stage, such as when a chargesheet is filed or charges are framed? The passage below is the Court's own answer to that second question.

> *“"(2) As regards the second question referred to this court, it is held that the life or duration of an anticipatory bail order does not end normally at the time and stage when the accused is summoned by the court, or when charges are framed, but can continue till the end of the trial. Again, if there are any special or peculiar features necessitating the court to limit the tenure of anticipatory bail, it is open for it to do so."”*

Source: Sushila Aggarwal and Others v. State (NCT of Delhi) and Another, [2020] 2 S.C.R. 1, Final Conclusions, Answer to Question No. 2, at p. 128 (Special Leave Petition (Criminal) Nos. 7281-7282 of 2017) (Supreme Court of India, decided 29 January 2020; this is the Court's own text, not the headnote). Source: https://scr.sci.gov.in/scrsearch/?p=pdf_search/home/nocaptcha&sel_lang=&app_token=

EXPLANATION IN SIMPLE LANGUAGE

In plain terms, being summoned to court or having charges framed against you does not, by itself, bring your anticipatory bail to an end. Unless the granting court has attached a specific condition limiting its duration, or a court later finds a special reason to limit or cancel it, the protection ordinarily continues all the way through the trial.

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सोप्या भाषेत स्पष्टीकरण

सोप्या भाषेत सांगायचे झाल्यास, न्यायालयाकडून समन्स बजावले जाणे किंवा आपल्यावर आरोप निश्चित (framing of charge) होणे, यामुळे आपोआप आपला अटकपूर्व जामीन संपुष्टात येत नाही. जामीन मंजूर करणाऱ्या न्यायालयाने त्याच्या कालावधीला मर्यादा घालणारी विशिष्ट अट घातली नसेल, किंवा नंतर एखाद्या न्यायालयाला तो मर्यादित करण्याचे किंवा रद्द करण्याचे विशेष कारण आढळले नसेल, तर हे संरक्षण सर्वसाधारणपणे संपूर्ण खटला (ट्रायल) चालेपर्यंत कायम राहते.

APPLICABILITY ON THE CUSTOMER'S CASE

This is directly relevant to your own matter: if the Sessions Court grants you anticipatory bail now, that protection would not lapse simply because the case later proceeds to a chargesheet, framing of charge, or any other procedural milestone. Read together with A.2 above, this means you would not need to apply afresh, or face a fresh risk of arrest, at each successive stage of the case, unless this Court specifically limits the protection or later finds good reason to cancel it.

Paid Add-on | Marathi

ग्राहकाच्या प्रकरणात लागूता

हे आपल्या स्वतःच्या प्रकरणाशी थेट संबंधित आहे: जर सत्र न्यायालयाने (Sessions Court) आता आपल्याला अटकपूर्व जामीन मंजूर केला, तर पुढे जाऊन प्रकरणात आरोपपत्र दाखल होणे, आरोप निश्चित होणे, किंवा इतर कोणताही प्रक्रियात्मक टप्पा आल्यामुळे हे संरक्षण संपुष्टात येणार नाही. वर नमूद A.2 सोबत वाचल्यास, याचा अर्थ असा होतो की प्रकरणाच्या प्रत्येक पुढील टप्प्यावर आपल्याला पुन्हा नव्याने अर्ज करण्याची किंवा अटकेच्या नव्या धोक्याला सामोरे जाण्याची गरज भासणार नाही, जोपर्यंत हे न्यायालय स्वतः या संरक्षणाला मर्यादा घालत नाही किंवा नंतर ते रद्द करण्याचे योग्य कारण आढळत नाही.

Illustration

A court grants a person anticipatory bail in a cruelty complaint. Some months later, the police file a chargesheet and the trial court frames charges against him. Applying the principle above, his anticipatory bail does not automatically lapse at either of these stages; it continues to protect him through the trial, since the granting court did not attach any condition limiting it to an earlier stage.

Paid Add-on | Marathi

उदाहरण

एका क्रूरतेच्या तक्रारीत न्यायालय एका व्यक्तीला अटकपूर्व जामीन मंजूर करते. काही महिन्यांनंतर, पोलीस आरोपपत्र दाखल करतात आणि विचारण न्यायालय (ट्रायल कोर्ट) त्याच्यावर आरोप निश्चित करते. वरील तत्त्व लागू केल्यास, यापैकी कोणत्याही टप्प्यावर त्याचा अटकपूर्व जामीन आपोआप संपुष्टात येत नाही; जामीन मंजूर करणाऱ्या न्यायालयाने त्याला आधीच्या एखाद्या टप्प्यापुरता मर्यादित करणारी कोणतीही अट घातली नसल्यामुळे, हे संरक्षण संपूर्ण खटला चालेपर्यंत त्याचे रक्षण करत राहते.

Part B - Arrest Should Not Be Automatic or Mechanical in a Complaint of This Kind

Sections 85-86 BNS (cruelty and dowry-harassment in the matrimonial context) are the direct successor provisions to Section 498-A of the Indian Penal Code, 1860. The Supreme Court has twice laid down binding directions specifically to prevent automatic or mechanical arrest in complaints of exactly this kind, given the historical pattern of over-implication of the husband's family in such matters.

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B.0 - Statute: Sections 85 and 86, Bharatiya Nyaya Sanhita, 2023

Sections 85-86 BNS are the actual offence provisions the complaint apprehended against you would be brought under. Both are quoted below, exactly as printed in the official Gazette text.

> *“"85. Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine."”*

Source: Section 85, Bharatiya Nyaya Sanhita, 2023. Official Gazette of India text on file (Statute Books (Laws) - "BNS, 2023 Official.pdf").

> *“"86. For the purposes of section 85, “cruelty” means— (a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand."”*

Source: Section 86, Bharatiya Nyaya Sanhita, 2023. Official Gazette of India text on file (Statute Books (Laws) - "BNS, 2023 Official.pdf").

EXPLANATION IN SIMPLE LANGUAGE

Section 85 is the offence itself - subjecting a woman to "cruelty" by her husband or his relative, punishable with up to three years' imprisonment and a fine. Section 86 then defines exactly what "cruelty" means for this purpose: either (a) wilful conduct likely to drive the woman to suicide or cause her grave physical or mental injury, or (b) harassment aimed at coercing her, or someone related to her, to meet an unlawful demand for property or valuable security. Nothing outside these two definitions counts as "cruelty" under this section.

Paid Add-on **Tamil**

எளிய மொழியில் விளக்கம்

Section 85 என்பது ஒரு பெண்ணை அவரது கணவர் அல்லது அவரது உறவினர் "கொடுமை"க்கு உள்ளாக்குவதை குற்றமாக ஆக்குகிறது; இதற்கு மூன்று ஆண்டுகள் வரை நீடிக்கக்கூடிய சிறைத்தண்டனையும் அபராதமும் விதிக்கப்படலாம். Section 86, இந்த நோக்கத்திற்காக "கொடுமை" என்றால் என்ன என்பதை துல்லியமாக வரையறுக்கிறது: (a) அந்தப் பெண்ணை தற்கொலைக்கு தூண்டக்கூடிய அல்லது அவருக்கு கடுமையான உடல் அல்லது மனரீதியான காயத்தை ஏற்படுத்தக்கூடிய வேண்டுமென்றே செய்யப்படும் நடத்தை, அல்லது (b) அவரையோ அல்லது அவருடன் தொடர்புடைய ஒருவரையோ, சொத்து அல்லது மதிப்புமிக்க பத்திரத்திற்கான சட்டவிரோத கோரிக்கையை நிறைவேற்றும்படி கட்டாயப்படுத்தும் நோக்கில் செய்யப்படும் துன்புறுத்தல். இந்த இரண்டு வரையறைகளுக்கு வெளியே உள்ள எதுவும் இந்தப் பிரிவின் கீழ் "கொடுமை"யாக கருதப்படாது.

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APPLICABILITY ON THE CUSTOMER'S CASE

Whatever complaint may eventually be filed against you and your parents would have to fit within one of these two specific definitions - not simply "there was marital discord" or "the marriage broke down." As Part B below explains, the Supreme Court has repeatedly cautioned that ordinary marital friction, without conduct actually meeting the (a) or (b) definition above, does not amount to this offence, and that arrest should not follow automatically merely because a complaint invokes these sections.

Paid Add-on | Tamil

வாடிக்கையாளரின் வழக்கில் பொருந்தும் தன்மை

உங்களுக்கும் உங்கள் பெற்றோருக்கும் எதிராக இறுதியில் எந்தப் புகார் பதிவு செய்யப்பட்டாலும், அது வெறுமனே "தாம்பத்திய கருத்து வேறுபாடு இருந்தது" அல்லது "திருமணம் முறிந்துவிட்டது" என்பதாக இல்லாமல், மேலே கூறப்பட்ட இந்த இரண்டு குறிப்பிட்ட வரையறைகளில் ஒன்றிற்குள் பொருந்த வேண்டும். கீழே உள்ள பகுதி B விளக்குவது போல, மேலே உள்ள (a) அல்லது (b) வரையறையை உண்மையில் பூர்த்தி செய்யும் நடத்தை இல்லாத சாதாரண தாம்பத்திய கருத்து வேறுபாடுகள் இந்தக் குற்றமாகக் கருதப்படாது என்றும், ஒரு புகார் இந்தப் பிரிவுகளைக் குறிப்பிடுகிறது என்ற ஒரே காரணத்திற்காக கைது தானாக நடைபெறக்கூடாது என்றும் உச்ச நீதிமன்றம் மீண்டும் மீண்டும் எச்சரித்துள்ளது.

B.1 - Judgment: Arnesh Kumar v. State of Bihar (Supreme Court, 2 July 2014)

> *“"From a plain reading of the aforesaid provision, it is evident that a person accused of offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years with or without fine, cannot be arrested by the police officer only on its satisfaction that such person had committed the offence punishable as aforesaid. Police officer before arrest, in such cases has to be further satisfied that such arrest is necessary to prevent such person from committing any further offence; or for proper investigation of the case; or to prevent the accused from causing the evidence of the offence to disappear; or tampering with such evidence in any manner; or to prevent such person from making any inducement, threat or promise to a witness so as to dissuade him from disclosing such facts to the Court or the police officer; or unless such accused person is arrested, his presence in the court whenever required cannot be ensured. These are the conclusions, which one may reach based on facts. Law mandates the police officer to state the facts and record the reasons in writing which led him to come to a conclusion covered by any of the provisions aforesaid, while making such arrest. Law further requires the police officers to record the reasons in writing for not making the arrest. In pith and core, the police officer before arrest must put a question to himself, why arrest? Is it really required? What purpose it will serve? What object it will achieve? It is only after these questions are addressed and one or the other conditions as enumerated above is satisfied, the power of arrest needs to be exercised. In fine, before arrest first the police officers should have reason to believe on the basis of information and material that the accused has committed the offence. Apart from this, the police officer has to be satisfied further that the arrest is necessary for one or the more purposes envisaged by sub-clauses (a) to (e) of clause (1) of Section 41 of Cr.PC."”*

Source: Arnesh Kumar v. State of Bihar and Another, [2014] 8 S.C.R. 128, para 9, at pp. 137-138 (Criminal Appeal No. 1277 of 2014) (Supreme Court of India, decided 2 July 2014). Minor OCR scanning artifacts in the verified copy (e.g. "cov~red", "police office") corrected to the evident intended words ("covered", "police officer") for readability; the substance and every word of the passage is otherwise reproduced exactly as written by the Court. Source: https://scr.sci.gov.in/scrsearch/?p=pdf_search/home&text=Arnesh%20Kumar%20v.%20State%20of%20Bihar&captcha=heCfYP&search_opt=ALL&fcourt_type=undefined&escr_flag=&proximity=&sel_lang=&neu_cit_year=&neu_no=&ncn=&citation_vol=&citation_yr=&citation_supl=&citation_page=&app_token=

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EXPLANATION IN SIMPLE LANGUAGE

This judgment was decided specifically in a matrimonial cruelty complaint under Section 498-A IPC - the predecessor of your own Sections 85-86 BNS. The Court held that a police officer cannot arrest a person accused of such an offence simply because a complaint has been filed; the officer must first ask specific questions and record, in writing, why arrest is genuinely necessary, applying the specific factors listed in Section 41(1) of the Code.

Paid Add-on | Telugu

సరళమైన భాషలో వివరణ

ఈ తీర్పు ప్రత్యేకంగా Section 498-A IPC కింద నమోదైన వైవాహిక క్రూరత్వ ఫిర్యాదులో ఇవ్వబడింది - ఇది మీ Sections 85-86 BNS కి పూర్వరూపం. ఫిర్యాదు దాఖలైనంత మాత్రాన, అలాంటి నేరానికి నిందితుడిగా ఉన్న వ్యక్తిని పోలీసు అధికారి అరెస్టు చేయకూడదని కోర్టు తీర్పునిచ్చింది; అరెస్టు నిజంగా అవసరమా అని నిర్ధారించడానికి అధికారి ముందుగా నిర్దిష్ట ప్రశ్నలు అడగాలి మరియు Section 41(1) of the Code లో పేర్కొన్న నిర్దిష్ట అంశాలను వర్తింపజేస్తూఅరెస్టు ఎందుకు అవసరమో లిఖితపూర్వకంగా నమోదు చేయాలి.

APPLICABILITY ON THE CUSTOMER'S CASE

You have told us that you fear imminent arrest given the offence's non-bailable, cognizable nature, and that your parents are apprehended to be named as co-accused alongside you. This passage's directions apply to all of you: none of you can lawfully be arrested merely because a complaint under Sections 85-86 BNS may be registered - the investigating officer is bound to first ask the specific questions this passage requires and record specific reasons before any arrest. This is itself a strong, independent ground supporting an anticipatory bail order in your favour.

Paid Add-on | Telugu

వినియోగదారు కేసుకు వర్తింపు

ఈ నేరం నాన్-బెయిలబుల్, కాగ్నిజబుల్ స్వభావం కలిగినందున మీకు తక్షణ అరెస్టు భయం ఉందని, అలాగే మీతోపాటు మీ తల్లిదండ్రులు కూడా సహ నిందితులుగా చేర్చబడతారని మీరు భావిస్తున్నట్లు మాకు తెలిపారు. ఈ భాగంలోని ఆదేశాలు మీ అందరికీ వర్తిస్తాయి: Sections 85-86 BNS కింద ఫిర్యాదు నమోదు కావచ్చు అనే కారణంతో మాత్రమే మీలో ఎవరినీ చట్టబద్ధంగా అరెస్టు చేయలేరు - దర్యాప్తు అధికారి ఏ అరెస్టుకైనా ముందుగా ఈ భాగంలో అవసరమైన నిర్దిష్ట ప్రశ్నలు అడగాలి మరియు నిర్దిష్ట కారణాలను నమోదు చేయాలి. ఇది మీకు అనుకూలంగా ముందస్తు బెయిల్ ఉత్తర్వు మంజూరుకు అదే ఒక బలమైన, స్వతంత్రమైన ఆధారంగా నిలుస్తుంది.

Illustration

A husband and his parents are named in a cruelty complaint filed by his wife. Acting mechanically, a police officer arrests all three the same day the complaint is registered, without recording any specific reason why arrest (rather than a notice of appearance) was necessary. Under the principle above, such an arrest would itself be legally unsustainable, since the officer failed to apply the mandatory factors before acting.

Paid Add-on | Telugu

ఉదాహరణ

భర్త మరియు అతని తల్లిదండ్రులు అతని భార్య దాఖలు చేసిన క్రూరత్వ ఫిర్యాదులో పేర్కొనబడ్డారు. యాంత్రికంగా వ్యవహరిస్తూ ఫిర్యాదు నమోదైన అదే రోజు ఒక పోలీసు అధికారి ముగ్గురినీ అరెస్టు చేస్తాడు, హాజరు నోటీసు కాకుండా అరెస్టు ఎందుకు అవసరమో ఎలాంటి నిర్దిష్ట కారణాన్ని నమోదు చేయకుండానే. పైన పేర్కొన్న సూత్రం ప్రకారం, చర్య తీసుకునే ముందు తప్పనిసరి అంశాలను వర్తింపజేయడంలో అధికారి విఫలమైనందున, అలాంటి అరెస్టు తనంతట తానే చట్టపరంగా నిలబడదు.

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B.2 - Judgment: Satender Kumar Antil v. Central Bureau of Investigation (Supreme Court, 11 July 2022)

> *“"The consequence of non-compliance with Section 41 shall certainly inure to the benefit of the person suspected of the offense. Resultantly, while considering the application for enlargement on bail, courts will have to satisfy themselves on the due compliance of this provision. Any non-compliance would entitle the accused to a grant of bail."”*

Source: Satender Kumar Antil v. Central Bureau of Investigation and Another, [2022] 10 S.C.R. 351, para 23 (Miscellaneous Application No. 1849 of 2021) (Supreme Court of India, decided 11 July 2022). Minor OCR scanning artifacts in the verified copy (missing spacing, e.g. "ofnon-compliance", "inureto", "toa") corrected to the evident intended words ("of non-compliance", "inure to", "to a") for readability; the substance and every word of the passage is otherwise reproduced exactly as written by the Court. Source: https://scr.sci.gov.in/scrsearch/?p=pdf_search/home/nocaptcha&sel_lang=&app_token=

EXPLANATION IN SIMPLE LANGUAGE

This later decision reaffirms and strengthens Arnesh Kumar. It holds that if the police fail to comply with Section 41's requirements before an arrest, that failure by itself entitles the accused to bail - not merely a factor the court may weigh, but an entitlement.

Paid Add-on | Korean

쉬운 언어로 설명

이 후속 판결은 Arnesh Kumar 판결을 재확인하며 그 취지를 한층 강화한다. 이 판결에 따르면, 경찰이 체포에 앞서 Section 41의 요건을 준수하지 않았다면, 그 불이행 사실 자체만으로 피의자는 보석을 받을 자격을 가진다 — 이는 법원이 재량으로 참작할 수 있는 하나의 고려 요소에 불과한 것이 아니라, 그 자체로 하나의 권리이다.

APPLICABILITY ON THE CUSTOMER'S CASE

Taken together with Arnesh Kumar, this gives you two independent, reinforcing grounds: any arrest of you or your parents without the police first satisfying Section 41's requirements would itself entitle you to bail as a matter of right, independent of the court's own separate assessment of the merits of the complaint. This reinforces the point made in A.1 above: your own apprehension of arrest already rests on specific, reliable information rather than vague fear, and B.1-B.2 together mean that even after a complaint is registered, arrest itself remains conditional on the police actually following the law, not automatic merely because a complaint exists.

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고객 사건에의 적용

Arnesh Kumar 판결과 함께 살펴보면, 귀하에게는 서로 독립적이면서도 서로를 뒷받침하는 두 가지 근거가 생긴다. 즉, 경찰이 먼저 Section 41의 요건을 충족하지 않은 상태에서 귀하 또는 귀하의 부모님을 체포한다면, 고소 내용의 타당성에 대한 법원의 별도 판단과는 무관하게, 그 사실 자체만으로 귀하는 권리로서 보석을 받을 자격을 가진다. 이는 위 A.1에서 언급한 내용, 즉 귀하가 체포를 우려하는 근거가 막연한 두려움이 아니라 구체적이고 신뢰할 수 있는 정보에 이미 기초하고 있다는 점을 뒷받침한다. 또한 B.1과 B.2를 함께 보면, 고소가 접수된 이후에도 체포 자체는 고소가 존재한다는 이유만으로 자동으로 이루어지는 것이 아니라, 경찰이 실제로 법을 준수하였는지에 여전히 좌우된다는 것을 의미한다.

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Illustration

In a bail hearing, an investigating officer is unable to show any recorded reason for why arrest was considered necessary in a cruelty complaint. Applying the principle above, the court holds that this non-compliance with Section 41 by itself entitles the accused to bail, independent of the court's own separate assessment of the merits of the complaint.

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예시

보석 심리에서 수사관은 잔혹행위(cruelty) 고소 사건에서 체포가 왜 필요하다고 판단되었는지에 관한 기록된 사유를 전혀 제시하지 못한다. 위 원칙을 적용하여, 법원은 이러한 Section 41 불준수 사실 자체만으로 — 고소 내용의 타당성에 대한 법원의 별도 판단과는 무관하게 — 피의자에게 보석을 받을 자격이 있다고 판시한다.

B.3 - Judgment: Satender Kumar Antil v. Central Bureau of Investigation (Supreme Court, 15 January 2026) - The New Code's Own Rule on Notice Before Arrest

> *“"Hence, we have no hesitation to hold that a notice under Section 35(3) of the BNSS, 2023 to an accused or any individual concerned, qua an offence punishable with imprisonment up to 7 years, is the rule, while an arrest under Section 35(6) read with Section 35(1)(b) of the BNSS, 2023, is a clear exception."”*

Source: Satender Kumar Antil v. Central Bureau of Investigation and Another, [2026] 1 S.C.R. 1882 : 2026 INSC 115, para 31 (M.A. No. 2034 of 2022 in M.A. No. 1849 of 2021 in Special Leave Petition (Crl.) No. 5191 of 2021) (Supreme Court of India, decided 15 January 2026, per M.M. Sundresh and Nongmeikapam Kotiswar Singh, JJ.). This is a later order in the same continuing matter as B.2 above, and is the Court's own direct interpretation of Section 35 of the Bharatiya Nagarik Suraksha Sanhita, 2023 - the code that actually governs your matter, rather than the old Code of Criminal Procedure discussed in Arnesh Kumar and the 2022 Antil decision above. Source: https://scr.sci.gov.in/scrsearch/?p=pdf_search/home&text=Satender%20Kumar%20Antil%20v.%20Central%20Bureau%20of%20Investigation&captcha=Yph5lv&search_opt=ALL&fcourt_type=undefined&escr_flag=&proximity=&sel_lang=&neu_cit_year=&neu_no=&ncn=&citation_vol=&citation_yr=&citation_supl=&citation_page=&app_token=

EXPLANATION IN SIMPLE LANGUAGE

Arnesh Kumar and the 2022 Antil decision above were both decided under the old Code of Criminal Procedure, 1973 - specifically its Section 41 and Section 41-A. Since 1 July 2024, the operative provision is Section 35 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), which carries the same protection forward in near-identical language: Section 35(3) requires the police to issue a notice of appearance instead of arresting, for any offence punishable with up to seven years' imprisonment (which includes your own Sections 85-86 BNS, punishable up to three years); Section 35(5) then bars arrest of a person who complies with that notice, unless the police record specific reasons why arrest has become necessary. This January 2026 decision is the Supreme Court directly confirming, under the new code itself, that a notice is the rule and an arrest is the exception - not simply an inference carried over from the old law.

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எளிய மொழியில் விளக்கம்

மேலே கூறப்பட்ட Arnesh Kumar தீர்ப்பும் 2022 ஆம் ஆண்டு Antil தீர்ப்பும் ஆகிய இரண்டும், பழைய Code of Criminal Procedure, 1973-இன் கீழ் - குறிப்பாக அதன் Section 41 மற்றும் Section 41-A இன் அடிப்படையில் - வழங்கப்பட்டவை. 1 ஜூலை 2024 முதல், நடைமுறையில் உள்ள பிரிவு Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)-இன் Section 35 ஆகும், இது அதே பாதுகாப்பை கிட்டத்தட்ட ஒரே மாதிரியான வார்த்தைகளில் தொடர்கிறது: Section 35(3), ஏழு ஆண்டுகள் வரை நீடிக்கக்கூடிய சிறைத்தண்டனை விதிக்கப்படக்கூடிய எந்தக் குற்றத்திற்கும் (இதில் மூன்று ஆண்டுகள் வரை தண்டனை விதிக்கப்படும் உங்கள் சொந்த Sections 85-86 BNS-உம் அடங்கும்) கைது செய்வதற்குப் பதிலாக ஆஜர் நோட்டீஸ் வழங்குமாறு காவல்துறையை கட்டாயப்படுத்துகிறது; அதன் பிறகு Section 35(5), கைது ஏன் அவசியமாகிவிட்டது என்பதற்கான குறிப்பிட்ட காரணங்களை காவல்துறை பதிவு செய்யாத வரையில், அந்த நோட்டீசுக்கு இணங்கும் ஒருவரைக் கைது செய்வதைத் தடை செய்கிறது. இந்த ஜனவரி 2026 தீர்ப்பு, புதிய சட்டத்தின் கீழேயே, நோட்டீஸ் என்பது விதி என்றும் கைது என்பது விதிவிலக்கு என்றும் உச்ச நீதிமன்றம் நேரடியாக உறுதிப்படுத்துவதாகும் - இது பழைய சட்டத்திலிருந்து தொடர்ந்து வரும் ஒரு வெறும் அனுமானம் மட்டும் அல்ல.

APPLICABILITY ON THE CUSTOMER'S CASE

This closes the one gap in the discussion above: Arnesh Kumar and the 2022 Antil decision speak to the old Code's Section 41, and it is this January 2026 decision that confirms, in terms, that the identical protection now lives in Section 35 of the code actually governing your Sections 85-86 BNS matter. Combined with B.1 and B.2, this means the 'arrest is not automatic' protection you are relying on is not a historical relic of the old law carried over by analogy - it is the Supreme Court's own, current, and direct reading of the statute that would apply to any complaint filed against you.

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வாடிக்கையாளரின் வழக்கில் பொருந்தும் தன்மை

மேலே உள்ள விவாதத்தில் இருந்த ஒரே இடைவெளியை இது நிரப்புகிறது: Arnesh Kumar தீர்ப்பும் 2022 ஆம் ஆண்டு Antil தீர்ப்பும் பழைய சட்டத்தின் Section 41-ஐப் பற்றி பேசுகின்றன, ஆனால் இந்த ஜனவரி 2026 தீர்ப்புதான், அதே பாதுகாப்பு இப்போது உங்கள் Sections 85-86 BNS விவகாரத்திற்கு உண்மையில் பொருந்தும் சட்டமான BNSS-இன் Section 35-இல் உள்ளது என்பதை உறுதியாக நிலைநாட்டுகிறது. B.1 மற்றும் B.2 உடன் இணைத்துப் பார்க்கும்போது, நீங்கள் நம்பியிருக்கும் 'கைது தானாக நடைபெறாது' என்ற பாதுகாப்பு, ஒப்புமை மூலம் தொடர்ந்து வரும் பழைய சட்டத்தின் ஒரு வரலாற்று எச்சம் அல்ல - உங்களுக்கு எதிராக பதிவு செய்யப்படும் எந்தப் புகாருக்கும் பொருந்தக்கூடிய, உச்ச நீதிமன்றத்தின் சொந்த, தற்போதைய, நேரடியான சட்டப் பொருள் விளக்கமே இது.

Illustration

A person is named in a cruelty complaint under Sections 85-86 BNS, an offence punishable up to three years. Applying the principle above, the police must first issue a Section 35(3) notice directing the person to appear, rather than arrest outright; only if the person fails to comply, or the police record specific fresh reasons why arrest has become necessary despite compliance, can an arrest follow.

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உதாரணம்

ஒரு நபர், மூன்று ஆண்டுகள் வரை தண்டனை விதிக்கப்படக்கூடிய குற்றமான Sections 85-86 BNS-இன் கீழ் ஒரு கொடுமை புகாரில் பெயர் குறிப்பிடப்படுகிறார். மேலே கூறப்பட்ட கொள்கையைப் பயன்படுத்தும்போது, காவல்துறை முதலில் அந்த நபரை நேரடியாகக் கைது செய்வதற்குப் பதிலாக, ஆஜராகுமாறு வழிநடத்தும் Section 35(3) நோட்டீஸை வழங்க வேண்டும்; அந்த நபர் இணங்கத் தவறினால், அல்லது இணங்கிய பிறகும் கைது ஏன் அவசியமாகிவிட்டது என்பதற்கான புதிய, குறிப்பிட்ட காரணங்களை காவல்துறை பதிவு செய்தால் மட்டுமே, கைது நடவடிக்கை தொடரலாம்.

Part C - Any Bail Conditions Attached Must Be Reasonable, Not Punitive

C.1 - Judgment: Sudeep Chatterjee v. State of Bihar and Another (Supreme Court, 2 August 2024)

> *“"We do not think it necessary to burden this judgment by multiplying the authorities on this subject as the constant and consistent view of this Court on matters granting a prayer for bail under Section 438 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') is that after forming an opinion, taking note of all relevant aspects, that bail is grantable, conditions shall not be put to make it impossible and impracticable for the grantee to comply with. As held by this Court in Parvez Noordin's case (supra), the ultimate purpose of putting conditions while granting pre-arrest bail is to secure the presence of the accused and thus, eventually to ensure a fair trial and also for the smooth flow of the investigating process."”*

Source: Sudeep Chatterjee v. State of Bihar and Another, [2024] 8 S.C.R. 662 : 2024 INSC 567, para 7 (Criminal Appeal No. 3210 of 2024) (Supreme Court of India, decided 2 August 2024). Source: https://scr.sci.gov.in/scrsearch/?p=pdf_search/home/nocaptcha&sel_lang=&app_token=

EXPLANATION IN SIMPLE LANGUAGE

This is a recent decision, decided on facts very close to your own - a matrimonial-cruelty matter where pre-arrest bail was found to be warranted. The Supreme Court held that once a court decides anticipatory bail should be granted at all, any conditions attached must still be practical and achievable, not conditions that defeat the purpose of granting bail in the first place. The Court also identified the real purpose conditions are meant to serve: securing the accused's presence for a fair trial and a smooth investigation - nothing more.

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わかりやすい説明

これは、あなたの事案と非常によく似た事実関係のもとで下された、比較的最近の判決です。婚姻関係における虐待が問題となった事件で、事前保釈（逮捕前保釈）を認めるべきであるとされました。最高裁判所は、裁判所がひとたび事前保釈を認めるべきだと判断した以上、そこに付す条件は現実的に履行可能なものでなければならず、保釈を認めるという本来の目的を台無しにするような条件であってはならないと判示しました。さらに同裁判所は、条件が果たすべき本来の目的、すなわち公正な裁判と円滑な捜査のために被疑者の出頭を確保することのみであり、それ以上のものではないことを明らかにしました。

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APPLICABILITY ON THE CUSTOMER'S CASE

If the Sessions Court is persuaded to grant you anticipatory bail, this judgment supports the argument that any conditions imposed on you (and your parents, if named) should serve that stated purpose - securing your presence and enabling a fair investigation - and should not be crafted to make the relief practically unusable. It is a point your advocate can specifically raise if the prosecution seeks unusually restrictive conditions. This is a separate, later-stage protection from the ones discussed in Parts A and B: those Parts concern whether you should be arrested at all; this one concerns what happens once bail is actually granted, so that the protection you obtain is not quietly undone through conditions that make it unworkable in practice.

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お客様の事案への適用

セッションズ・コート（地方裁判所）があなたに事前保釈を認めるよう説得された場合、この判決は、あなた（および、氏名が挙げられている場合はご両親）に課される条件が、先に述べた目的――あなたの出頭を確保し、公正な捜査を可能にすること――に資するものでなければならず、救済を事実上使えないものにするために作られたものであってはならない、という主張を裏付けます。検察側が異例に厳格な条件を求めてきた場合、これはあなたの代理人（弁護士）が特に指摘できる論点です。これは、パートAおよびパートBで論じた保護とは別の、より後の段階における保護です。それらのパートは、そもそもあなたが逮捕されるべきかどうかに関わるものですが、この論点は、実際に保釈が認められた後に何が起きるか、すなわち、獲得した保護が、実務上機能しないような条件によって密かに無効化されないようにすることに関わるものです。

Illustration

A court grants a person pre-arrest bail in a matrimonial complaint but attaches a condition requiring him to remain physically present at a specific location at all times, effectively preventing him from working. Applying the principle above, an appellate court would set aside such a condition as impossible and impracticable to comply with, since it goes well beyond what is needed to secure the accused's presence and a fair trial.

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例

ある裁判所が、婚姻関係に関する告訴事件において、ある人物に事前保釈を認めたが、常に特定の場所に物理的に滞在し続けることを求める条件を付し、その結果、事実上その人物が働くことができなくなったとする。上記の原則を適用すれば、上訴裁判所は、そのような条件は履行することが不可能かつ非現実的であるとして取り消すことになる。なぜなら、それは被疑者の出頭と公正な裁判を確保するために必要な範囲を大きく超えているからである。

Part D - The Position of Your Parents, Also Apprehended to Be Named

You have told us your parents are also apprehended to be named as co-accused in the anticipated complaint, alongside the allegations against you. This Part addresses the law specifically protecting relatives named in matrimonial-cruelty complaints from routine or exaggerated implication.

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D.1 - Judgment: Rajesh Sharma and Others v. State of Uttar Pradesh and Another (Supreme Court, 27 July 2017)

> *“"Section 498A was inserted in the statute with the laudable object of punishing cruelty at the hands of husband or his relatives against a wife particularly when such cruelty had potential to result in suicide or murder of a woman as mentioned in the Statement of Objects and Reasons of the Act 46 of 1983. The expression 'cruelty' in Section 498A covers conduct which may drive the women to commit suicide or cause grave injury (mental or physical) or danger to life or harassment with a view to coerce her to meet unlawful demand. It is a matter of serious concern that large number of cases continue to be filed under Section 498A alleging harassment of married women. We have already referred to some of the statistics from the Crime Records Bureau. This Court had earlier noticed the fact that most of such complaints are filed in the heat of the moment over trivial issues. Many of such complaints are not bona fide. At the time of filing of the complaint, implications and consequences are not visualized. At times such complaints lead to uncalled for harassment not only to the accused but also to the complainant. Uncalled for arrest may ruin the chances of settlement. This Court had earlier observed that a serious review of the provision was warranted. The matter also appears to have been considered by the Law Commission, the Malimath Committee, the Committee on Petitions in the Rajya Sabha, the Home Ministry, which have been referred to in the earlier part of the Judgment. The abuse of the provision was also noted in the judgments of this Court referred to earlier. Some High Courts have issued directions to check such abuse. In Arnesh Kumar (supra) this Court gave directions to safeguard uncalled for arrests. Recommendation has also been made by the Law Commission to make the offence compoundable."”*

Source: Rajesh Sharma and Others v. State of U.P. and Another, [2017] 9 S.C.R. 529, para 14, at pp. 539-540 (Criminal Appeal No. 1265 of 2017) (Supreme Court of India, decided 27 July 2017). Minor OCR scanning artifacts in the verified copy (e.g. "statl\te" -> "statute", "pai1icularly" -> "particularly", "offilip.g" -> "filing", "tbe Committee on Petitions" -> "the Committee on Petitions", "Reconm1endation" -> "Recommendation") corrected to the evident intended words for readability; the substance and every word of the passage is otherwise reproduced exactly as written by the Court. Source: https://scr.sci.gov.in/scrsearch/?p=pdf_search/home/nocaptcha&sel_lang=&app_token=#

EXPLANATION IN SIMPLE LANGUAGE

The Supreme Court recognised, in a decision directly about Section 498-A IPC (the predecessor of your Sections 85-86 BNS), that a very large number of such complaints are filed impulsively, are not always bona fide, and that this pattern has been studied at the highest levels - the Law Commission, the Malimath Committee, and Parliament itself - precisely because uncalled-for arrest can cause serious, sometimes irreversible harm before the truth of a complaint is even tested.

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简明解释

最高法院在一项直接涉及 Section 498-A IPC（即你案件中 Sections 85-86 BNS 的前身条款）的判决中确认：此类投诉中有相当大一部分是出于一时冲动而提出的，并非总是出于善意；而且这一现象已在最高层面得到研究——法律委员会、马利马特委员会（Malimath Committee）以及议会本身都曾对此进行研究——这正是因为，在一项投诉的真实性尚未经过检验之前，不必要的逮捕就可能造成严重、有时甚至无法挽回的伤害。

APPLICABILITY ON THE CUSTOMER'S CASE

This directly supports the position of your parents. The fact that they are apprehended to be named as co-accused alongside you, in what you describe as an exaggerated account of a marriage breaking down, is precisely the pattern this passage identifies and cautions against - a reason for the investigating agency and the Court to proceed carefully rather than treat their apprehended implication as automatically warranting arrest. This ground stands independently of the arrest-

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necessity protections discussed in Part B (Arnesh Kumar and Satender Kumar Antil), which apply to all of you equally; this one specifically addresses why your parents' apprehended inclusion itself deserves particular scrutiny, over and above the general protections against mechanical arrest that already benefit you and them together.

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对客户案件的适用性

这一点直接支持了你父母的立场。你担心他们会与你一同被列为共同被告，而这正发生在你所描述的、一段婚姻破裂被夸大陈述的情形之中——这恰恰是上述内容所指出并加以警示的那种模式：即调查机关和法院应当谨慎处理，而不应将他们可能被牵连其中这一担忧，自动等同于理应予以逮捕。这一理由独立于第B部分所讨论的"逮捕必要性"保护（Arnesh Kumar 与 Satender Kumar Antil 两案），后者对你们所有人平等适用；而这一理由则专门说明了，为何你父母可能被牵连本身就值得特别审视——这是在你们共同已经享有的、针对机械式逮捕的一般性保护之上，额外增加的一层保障。

Illustration

A wife's complaint names her husband and, without describing any specific act by either, also names his elderly parents who live in a different city. Applying the principle above, a court would treat the parents' inclusion with caution, recognising the documented pattern of relatives being swept into such complaints without a specific, individualised allegation against them.

Paid Add-on | Chinese

示例

一名妻子的投诉中列出了她的丈夫，且在未具体描述二人任何行为的情况下，还列出了住在另一座城市、年事已高的公婆。依照上述原则，法院会对将公婆列入投诉一事持谨慎态度，因为已有据可查的模式显示：亲属常常是在没有具体、专门针对本人的指控的情况下，被卷入此类投诉之中的。

D.2 - Judgment: Preeti Gupta and Another v. State of Jharkhand and Another (Supreme Court, 13 August 2010)

> *“"We have very carefully considered the averments of the complaint and the statements of all the witnesses recorded at the time of the filing of the complaint. There are no specific allegations against the appellants in the complaint and none of the witnesses have alleged any role of both the appellants."”*

Source: Preeti Gupta and Another v. State of Jharkhand and Another, [2010] 9 S.C.R. 1168, para 26, at p. 1184 (Criminal Appeal No. 1512 of 2010) (Supreme Court of India, decided 13 August 2010). Source: https://scr.sci.gov.in/scrsearch/?p=pdf_search/home/nocaptcha&sel_lang=&app_token=#

EXPLANATION IN SIMPLE LANGUAGE

In this case, the Supreme Court quashed proceedings against relatives of the husband after finding, on a careful review of the complaint and the witness statements, that no specific allegation and no specific role had actually been attributed to them individually. The Court held that allegations against a husband's relatives must be examined this carefully before proceedings are allowed to continue against them, rather than assumed to be true because they were named alongside the husband.

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EXPLICATION EN LANGAGE SIMPLE

Dans cette affaire, la Cour suprême a annulé les poursuites engagées contre les proches du mari après avoir constaté, à l'issue d'un examen attentif de la plainte et des déclarations des témoins, qu'aucune allégation précise et aucun rôle spécifique ne leur avait en réalité été attribué individuellement. La Cour a jugé que les allégations formulées contre les proches d'un mari doivent être examinées avec ce même degré de rigueur avant que les poursuites ne soient autorisées à se poursuivre contre eux, plutôt que d'être présumées exactes du seul fait qu'ils étaient mentionnés aux côtés du mari.

APPLICABILITY ON THE CUSTOMER'S CASE

This is directly relevant to your parents' position. If the anticipated complaint names them without describing any specific act attributable to either of them individually - as opposed to general, undifferentiated allegations against "the family" - this passage supports the argument that their inclusion warrants the same close scrutiny the Supreme Court applied here, and is a further, independent ground supporting anticipatory bail in their favour as well as yours. Taken with D.1 above, these two decisions give your parents two separate, reinforcing grounds specific to their own position, in addition to the arrest-necessity protections in Part B that apply to all three of you.

Paid Add-on French

APPLICABILITÉ AU DOSSIER DU CLIENT

Ceci concerne directement la situation de vos parents. Si la plainte anticipée les nomme sans décrire d'acte précis imputable à l'un ou l'autre individuellement - par opposition à des allégations générales et non différenciées visant « la famille » - ce passage vient étayer l'argument selon lequel leur mise en cause justifie le même examen rigoureux que celui appliqué par la Cour suprême dans cette affaire, et constitue un motif supplémentaire et autonome en faveur d'une mise en liberté sous caution anticipée les concernant, tout comme pour vous. Combiné au point D.1 ci-dessus, ces deux décisions offrent à vos parents deux motifs distincts et complémentaires propres à leur situation, en plus des protections liées à la nécessité de l'arrestation exposées dans la Partie B, qui s'appliquent à vous trois.

Illustration

A complaint alleges cruelty by a husband and, in a single general sentence, states that "his family also harassed her," without describing any specific incident involving his parents by name. Applying the principle above, a court examining an anticipatory bail application on the parents' behalf would treat this generalised, non-specific allegation with considerable caution.

Paid Add-on French

ILLUSTRATION

Une plainte allègue des faits de cruauté commis par un mari et affirme, en une seule phrase générale, que « sa famille l'a également harcelée », sans décrire aucun incident précis impliquant nommément ses parents. En application du principe énoncé ci-dessus, une juridiction examinant une demande de mise en liberté sous caution anticipée présentée pour le compte des parents traiterait cette allégation générale et non spécifique avec une prudence considérable.

D.3 - Judgment: Achin Gupta v. State of Haryana and Another (Supreme Court, 3 May 2024)

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> *""If a person is made to face a criminal trial on some general and sweeping allegations without bringing on record any specific instances of criminal conduct, it is nothing but abuse of the process of the court.""*

Source: Achin Gupta v. State of Haryana and Another, [2024] 6 S.C.R. 129 : 2024 INSC 369, para 25 (Criminal Appeal No. 2379 of 2024) (Supreme Court of India, decided 3 May 2024, per J.B. Pardiwala and Manoj Misra, JJ.). Source: https://scr.sci.gov.in/scrsearch/?p=pdf_search/home&text=Achin%20Gupta%20v.%20State%20of%20Haryana&captcha=8ALhwP&search_opt=ALL&fcourt_type=undefined&escr_flag=&proximity=&sel_lang=&neu_cit_year=&neu_no=&ncn=&citation_vol=&citation_yr=&citation_supl=&citation_page=&app_token=

EXPLANATION IN SIMPLE LANGUAGE

This is a recent decision on facts close to your parents' own position - a husband and his family members named in a matrimonial cruelty complaint under the very sections that preceded your own Sections 85-86 BNS (the old Section 498-A IPC, which the Court itself noted, elsewhere in this judgment, that Sections 85-86 BNS reproduce verbatim). The Court quashed the proceedings, applying the same caution against general and sweeping allegations that Rajesh Sharma and Preeti Gupta (D.1 and D.2 above) had already laid down, and specifically endorsed the reasoning in Geeta Mehrotra v. State of U.P. that a mere casual reference to a family member's name, without any allegation of active involvement, does not justify proceeding against them.

Paid Add-on | Telugu

సరళమైన భాషలో వివరణ

ఈ తీర్పు మీ తల్లిదండ్రుల పరిస్థితికి దగ్గరగా ఉన్న వాస్తవాలపై ఇటీవల ఇవ్వబడింది - మీ సొంత Sections 85-86 BNS కి ముందున్న అదే సెక్షన్ల కింద (పాత Section 498-A IPC, దీనిని ఈ తీర్పులోనే మరోచోట కోర్టు స్వయంగా పేర్కొంటూ, Sections 85-86 BNS అక్షరాలా అదే విధంగా పునరుత్పత్తి చేస్తాయని తెలిపింది) ఒక వైవాహిక క్రూరత్వ ఫిర్యాదులో భర్తను మరియు అతని కుటుంబ సభ్యులను పేర్కొన్న కేసు ఇది. Rajesh Sharma మరియు Preeti Gupta (పైన D.1 మరియు D.2) ఇప్పటికే నిర్దేశించిన సాధారణ మరియు విస్తృతమైన ఆరోపణలపై అదే జాగ్రత్తను వర్తింపజేస్తూకోర్టు ఈ కేసులోని విచారణను కొట్టివేసింది, మరియు కుటుంబ సభ్యుడి పేరును కేవలం సాధారణ ప్రస్తావనగా చేర్చడం, అతని/ఆమె క్రియాశీలక ప్రమేయం గురించి ఎలాంటి ఆరోపణ లేకుండా, వారిపై విచారణ కొనసాగించడాన్ని సమర్థించదని Geeta Mehrotra v. State of U.P. తీర్పులోని వాదనను ప్రత్యేకంగా కోర్టు ఆమోదించింది.

APPLICABILITY ON THE CUSTOMER'S CASE

This reinforces D.1 and D.2 for your parents' position with the most current authority on the point: it is not only settled law that general, undifferentiated implication of relatives is disfavoured, but this has been reaffirmed as recently as 2024, on a fact pattern - husband and in-laws named together in a matrimonial complaint - very close to your own family's apprehended situation.

Paid Add-on | Telugu

వినియోగదారు కేసుకు వర్తింపు

ఈ అంశంపై అత్యంత ఇటీవలి అధికారంతో ఇది మీ తల్లిదండ్రుల పరిస్థితి కోసం D.1 మరియు D.2 లను బలపరుస్తుంది: బంధువులను సాధారణంగా, ప్రత్యేకించి వేరుచేయకుండా ఇరికించడం అననుకూలమైనదని ఇది ఇప్పటికే స్థిరపడిన చట్టం మాత్రమే కాదు, ఇది 2024లో కూడా - భర్త మరియు అత్తమామలు కలిసి ఒక వైవాహిక ఫిర్యాదులో పేర్కొనబడిన వాస్తవ నమూనాపై, మీ సొంత కుటుంబం ఎదుర్కొంటుందని భావిస్తున్న పరిస్థితికి చాలా దగ్గరగా ఉన్న సందర్భంలో - మళ్లీ ధృవీకరించబడింది.

Illustration

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A husband and his parents are named in a matrimonial cruelty complaint. The complaint describes specific conduct only by the husband, and refers to the parents only in a single general sentence alleging that 'his family also harassed her.' Applying the principle above, a court would be justified in finding that the complaint, as against the parents, discloses no specific instance of criminal conduct and amounts to the kind of general and sweeping allegation that constitutes an abuse of the process of court.

Paid Add-on | Telugu

ఉదాహరణ

ఒక భర్త మరియు అతని తల్లిదండ్రులు ఒక వైవాహిక క్రూరత్వ ఫిర్యాదులో పేర్కొనబడ్డారు. ఫిర్యాదు భర్త చేసిన నిర్దిష్ట ప్రవర్తనను మాత్రమే వివరిస్తుంది, మరియు తల్లిదండ్రులను గురించి 'అతని కుటుంబం కూడా ఆమెను వేధించింది' అని ఆరోపిస్తూ ఒకే ఒక సాధారణ వాక్యంలో మాత్రమే ప్రస్తావిస్తుంది. పైన పేర్కొన్న సూత్రాన్ని వర్తింపజేస్తే, తల్లిదండ్రులకు వ్యతిరేకంగా ఉన్న ఫిర్యాదు ఎలాంటి నిర్దిష్ట నేర ప్రవర్తనను వెల్లడించదని మరియు అది న్యాయస్థాన ప్రక్రియ దుర్వినియోగానికి కారణమయ్యే సాధారణ మరియు విస్తృతమైన ఆరోపణ రకానికి చెందుతుందని కోర్టు సహేతుకంగా నిర్ధారించగలదు.

Part E - Putting It Together: What This Means for You, Practically

The four Parts above each address one legal question in isolation. This Part draws them together into the practical picture for your own matter, and answers the questions you are most likely to have once you have read them.

Q: Do I have to wait until an FIR is actually registered before I can ask a court for protection?

A: No. As Part A explains (Gurbaksh Singh Sibbia), the law does not require a registered FIR before a court can grant anticipatory bail - it requires a reasonable, fact-based apprehension of arrest, which is exactly what the specific information you have received through common relatives provides.

Paid Add-on | German

Muss ich warten, bis tatsächlich eine FIR (Erstanzeige bei der Polizei) registriert wurde, bevor ich bei einem Gericht um Schutz ersuchen kann?

Nein. Wie in Teil A erläutert (Gurbaksh Singh Sibbia), verlangt das Gesetz keine bereits registrierte FIR, damit ein Gericht vorbeugende Kaution (anticipatory bail) gewähren kann – erforderlich ist lediglich eine begründete, auf Tatsachen gestützte Befürchtung einer Verhaftung. Genau das ergibt sich aus den konkreten Informationen, die Sie über gemeinsame Verwandte erhalten haben.

Q: If a complaint is registered, does that mean arrest will follow automatically?

A: No. As Part B explains (Arnesh Kumar and Satender Kumar Antil), even after a complaint under Sections 85-86 BNS is registered, the police must independently satisfy themselves, and record in writing, that arrest is actually necessary - not merely that a complaint exists. If they fail to do this, that failure by itself supports a right to bail.

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Si se registra una denuncia, ¿significa eso que la detención será automática?

No. Como explica la Parte B (Arnesh Kumar y Satender Kumar Antil), incluso después de registrarse una denuncia conforme a las Sections 85-86 BNS, la policía debe convencerse de manera independiente, y dejar constancia por escrito, de que la detención es realmente necesaria, y no simplemente que existe una denuncia. Si no lo hacen, ese incumplimiento por sí solo respalda un derecho a la libertad bajo fianza.

Q: If the Court grants anticipatory bail, could it later expire on its own, for example once the police finish investigating or file a chargesheet?

A: No, not automatically. As Part A explains (Sushila Aggarwal), protection granted under this provision continues without a fixed time limit unless the granting court itself attaches a specific condition to that effect, or the protection is later cancelled for good reason. You would not need to apply afresh at each new stage of the case.

Paid Add-on | Arabic

إذا منحت المحكمة الكفالة الاحترازية (الكفالة السابقة للاعتقال)، فهل يمكن أن تنتهي صلاحيتها تلقائياً فيما بعد، مثلاً بمجرد انتهاء الشرطة من التحقيق أو تقديم لائحة الاتهام؟

لا، لا تنتهي صلاحيتها تلقائياً. وكما أوضح الجزء (أ) (قضية Sushila Aggarwal)، فإن الحماية الممنوحة بموجب هذا الحكم تستمر دون حد زمني محدد، ما لم تدرج المحكمة المانحة نفسها شرطًا محددًا بهذا الخصوص، أو ما لم تُلغ الحماية لاحقًا لسبب وجيه. وبناءً على ذلك، لن تكون بحاجة إلى تقديم طلب جديد في كل مرحلة من مراحل القضية.

Q: Can the Court attach any condition it wants to the bail it grants?

A: No. As Part C explains (Sudeep Chatterjee), any condition attached must genuinely serve the purpose bail conditions exist for - securing your presence and enabling a fair investigation - and must be practical to actually comply with. A condition that is so restrictive it defeats the point of being granted bail at all is not one the law supports.

Paid Add-on | Hindi

क्या न्यायालय जमानत देते समय उस पर अपनी इच्छानुसार कोई भी शर्त लगा सकता है?

नहीं। जैसा कि भाग C (Sudeep Chatterjee) में बताया गया है, लगाई गई कोई भी शर्त वास्तव में उसी उद्देश्य की पूर्ति करनी चाहिए जिसके लिए जमानत की शर्तें बनाई जाती हैं - यानी आपकी उपस्थिति सुनिश्चित करना और निष्पक्ष जांच को संभव बनाना - और उसका पालन करना व्यावहारिक रूप से संभव होना चाहिए। ऐसी शर्त जो इतनी प्रतिबंधात्मक हो कि वह जमानत मिलने के उद्देश्य को ही विफल कर दे, कानून द्वारा मान्य नहीं है।

Q: Are my parents in a different, more protected position than I am, or do the same protections apply to all of us equally?

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A: Both. The protections in Parts A, B, and C - the reasonableness of the apprehension, the requirement that arrest not be automatic, and the requirement that any conditions be reasonable - apply to you and your parents equally, since none of you is treated differently by those principles. In addition, your parents have their own, further ground that you do not personally need: Part D (Rajesh Sharma and Preeti Gupta) specifically protects relatives who are named in a matrimonial complaint without any specific, individualised allegation against them. If the complaint against your parents turns out to be as general as you currently expect, this is an additional, independent ground available to them alone.

Paid Add-on | Bengali

আমার বাবা-মা কি আমার চেয়ে আলাদা, বেশি সুরক্ষিত অবস্থানে আছেন, নাকি একই সুরক্ষা আমাদের সবার ক্ষেত্রে সমানভাবে প্রযোজ্য?

দুটোই সত্য। পার্ট এ, বি এবং সি-তে উল্লিখিত সুরক্ষাগুলি - আশঙ্কার যুক্তিসঙ্গততা, গ্রেপ্তার স্বয়ংক্রিয় না হওয়ার শর্ত এবং যেকোনো শর্ত যুক্তিসঙ্গত হওয়ার প্রয়োজনীয়তা - আপনার এবং আপনার বাবা-মায়ের ক্ষেত্রে সমানভাবে প্রযোজ্য, কারণ এই নীতিগুলি আপনাদের কাউকেই আলাদাভাবে বিবেচনা করে না। এছাড়াও, আপনার বাবা-মায়ের নিজস্ব একটি অতিরিক্ত ভিত্তি রয়েছে, যা আপনার ব্যক্তিগতভাবে প্রয়োজন নেই: পার্ট ডি (Rajesh Sharma এবং Preeti Gupta) বিশেষভাবে সেইসব আত্মীয়দের সুরক্ষা দেয় যাদের বিরুদ্ধে কোনো নির্দিষ্টব্যক্তিকেন্দ্রিক অভিযোগ ছাড়াই একটি বৈবাহিক অভিযোগে নাম উল্লেখ করা হয়েছে। আপনার বাবা-মায়ের বিরুদ্ধে দায়ের করা অভিযোগ যদি আপনি বর্তমানে যেমন আশা করছেন তেমনই সাধারণ প্রকৃতির হয়, তাহলে এটি একটি অতিরিক্ত স্বতন্ত্র ভিত্তি যা কেবল তাদের জন্যই প্রযোজ্য।

Q: What is the overall picture, in one sentence?

A: You do not need to wait for an FIR to seek protection; even if one is registered, arrest is not automatic and depends on the police following the law; any bail granted would not expire on its own and would not come with unworkable conditions; and your parents have their own additional protection against being swept into the complaint without a specific allegation against either of them.

Paid Add-on | Marathi

एकंदर चित्र, एका वाक्यात काय आहे?

संरक्षण मिळवण्यासाठी तुम्हाला एफआयआरची वाट पाहण्याची गरज नाही; एफआयआर नोंदवली गेली तरीही अटक आपोआप होत नाही आणि ती पोलिसांनी कायद्याचे पालन करण्यावर अवलंबून असते; मंजूर झालेला जामीन आपोआप संपणार नाही आणि त्यासोबत पाळता न येणाऱ्या अटी लादल्या जाणार नाहीत; आणि तुमच्या आई-वडिलांना, त्यांच्यापैकी कोणावरही विशिष्ट आरोप नसताना तक्रारीत विनाकारण ओढले जाण्यापासून स्वतःचे वेगळे अतिरिक्त संरक्षण आहे.

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ANTICIPATORY BAIL APPLICATION (DRAFT)

Prepared for Mr. X (Fictional and Illustrative Character)

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BEFORE THE COURT OF THE LD. SESSIONS JUDGE, XXXX, XXXXXX PRADESH

ANTICIPATORY BAIL APPLICATION NO. ____ OF 2026

(Under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023)

IN THE MATTER OF:

Mr. X ...APPLICANT NO. 1

Mr. X's Father ...APPLICANT NO. 2

Mr. X's Mother ...APPLICANT NO. 3

VERSUS

STATE ...RESPONDENT NO. 1

Mrs. Y (Proposed Complainant) ...RESPONDENT NO. 2

(In anticipation of a complaint apprehended under Sections 85 and 86, Bharatiya Nyaya Sanhita, 2023)

SYNOPSIS

The present anticipatory bail application is preferred by Applicant No. 1 (the husband) and Applicant Nos. 2 and 3 (his parents), apprehending arrest in connection with a complaint yet to be registered, expected to allege offences of cruelty and dowry-related harassment under Sections 85 and 86 of the Bharatiya Nyaya Sanhita, 2023, arising out of the breakdown of Applicant No. 1's marriage with Respondent No. 2. No First Information Report has been registered as of the date of this application. The apprehension of arrest rests on specific, credible information received through relatives and acquaintances common to both

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families, that Respondent No. 2 has approached, or is on the verge of approaching, counsel with a view to lodging such a complaint. The Applicants deny in their entirety the allegations apprehended to be made, submit that the same, if and when actually levelled, would amount to a highly exaggerated and coloured account of an ordinary matrimonial breakdown, and seek the protection of this Hon'ble Court against arrest pending investigation and trial, on the grounds set out below.

LIST OF DATES

Date	Event
2022	Marriage solemnized between Applicant No. 1 and Respondent No. 2 (para 1).
Subsequent to the marriage (precise date not ascertained)	Marital discord arose between the parties on account of differences in temperament and everyday matrimonial friction (para 3).
On or about July 2026	Respondent No. 2 left the matrimonial home and began residing at her parental residence (para 4).
Thereafter (precise date not ascertained)	Repeated efforts were made, directly and through relatives common to both families, to persuade Respondent No. 2 to return to the matrimonial home and resolve the differences amicably; these efforts did not succeed (para 4).
Shortly before the filing of the present application (precise date not ascertained)	The Applicants were reliably informed, through relatives and acquaintances common to both families, that Respondent No. 2 intends to file, or has approached counsel with a view to filing, a criminal complaint against the

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	Applicants under Sections 85 and 86, Bharatiya Nyaya Sanhita, 2023 (para 5).
As of the date of this application	No First Information Report has been registered against any of the Applicants; the apprehended complaint remains, to the Applicants' knowledge and belief, at the stage of instructions to counsel (para 6).
00.00.2026	Present Anticipatory Bail Application filed before this Hon'ble Court.

BEFORE THE COURT OF THE LD. SESSIONS JUDGE, XXXX, XXXXXX PRADESH

ANTICIPATORY BAIL APPLICATION NO. ____ OF 2026

(Under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023)

IN THE MATTER OF:

Mr. X ...APPLICANT NO. 1

Mr. X's Father ...APPLICANT NO. 2

Mr. X's Mother ...APPLICANT NO. 3

VERSUS

STATE ...RESPONDENT NO. 1

Mrs. Y (Proposed Complainant) ...RESPONDENT NO. 2

(In anticipation of a complaint apprehended under Sections 85 and 86, Bharatiya Nyaya Sanhita, 2023)

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MEMO OF PARTIES

Mr. X, S/o Mr. X's Father, aged about 34 years, presently residing at XXX, XXXXX Apartments, XXXXX Nagar, XXXX, XXXXXX Pradesh, by occupation a private-sector employee … APPLICANT NO. 1

Mr. X's Father, S/o Late Shri XXXXX, aged about 62 years, residing at XXX, XXXXX Colony, XXXX, XXXXXX Pradesh, father of Applicant No. 1, residing separately from the matrimonial household of Applicant No. 1 … APPLICANT NO. 2

Mr. X's Mother, W/o Mr. X's Father, aged about 58 years, residing at XXX, XXXXX Colony, XXXX, XXXXXX Pradesh, mother of Applicant No. 1, residing separately from the matrimonial household of Applicant No. 1 … APPLICANT NO. 3

VERSUS

STATE, through the Station House Officer, XXXXX Police Station, XXXX, XXXXXX Pradesh … RESPONDENT NO. 1

Mrs. Y, W/o Mr. X, presently residing at XXX, XXXXX Colony, XXXXXX, XXXXXX Pradesh (Proposed Complainant) … RESPONDENT NO. 2

ANTICIPATORY BAIL APPLICATION ON BEHALF OF THE APPLICANTS UNDER SECTION 482 OF THE BHARATIYA NAGARIK SURAKSHA SANHITA, 2023, IN ANTICIPATION OF A COMPLAINT APPREHENDED TO BE FILED UNDER SECTIONS 85 AND 86 OF THE BHARATIYA NYAYA SANHITA, 2023

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MOST RESPECTFULLY SHOWETH:

A. BRIEF FACTS

1. That Applicant No. 1 (Mr. X) and Respondent No. 2 (Mrs. Y) were married in the year 2022, in accordance with the customary rites and ceremonies applicable to the parties, and the marriage was duly solemnized and consummated.

2. That the initial period of the marriage passed, in substance, without any incident of the kind now apprehended to be alleged, and the difficulties giving rise to the present apprehension arose only later, in the ordinary and regrettable course that a marriage may unfortunately follow, and not from any premeditated design on the part of the Applicants to cause harm, harassment, or hurt to Respondent No. 2.

3. That marital discord arose between the parties in the course of the marriage on account of differences in temperament and everyday matrimonial friction. It is submitted that such discord, though genuinely regretted by Applicant No. 1, did not at any stage involve cruelty, a dowry demand, or any act answering to the description of an offence under Sections 85 or 86 of the Bharatiya Nyaya Sanhita, 2023.

4. That Respondent No. 2 left the matrimonial home on or about July 2026 and has, since then, been residing at her parental residence. The Applicants state that repeated efforts were made thereafter, both directly and through relatives common to both families, to persuade Respondent No. 2 to return to the matrimonial home and to resolve the differences amicably, but that these efforts did not succeed.

5. That instead of a reconciliation, the Applicants have since been reliably informed, through relatives and acquaintances common to both families, that Respondent No. 2 intends to file, or has already approached counsel with a view to filing, a criminal complaint against the Applicants alleging cruelty and dowry-related harassment, punishable under Sections 85 and 86 of the Bharatiya Nyaya Sanhita, 2023.

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6. That as of the date of the present application, no First Information Report has been registered against any of the Applicants, and the apprehended complaint remains, to the Applicants' knowledge and belief, at the stage of instructions to counsel, no formal complaint having as yet been lodged before any police station or Magistrate.

7. That the Applicants deny, in their entirety, the allegations apprehended to be levelled against them. It is submitted that the same, if and when actually made, would constitute a highly exaggerated and coloured account of ordinary marital discord and the eventual breakdown of the marriage, rather than any genuine incident answering to the statutory description of cruelty or a dowry demand, and that the apprehended complaint is, in truth, a counterblast prompted by the breakdown of the marriage rather than by any actual criminal conduct on the part of the Applicants.

8. That Applicant Nos. 2 and 3 are the parents of Applicant No. 1, reside separately from the couple at all material times, and did not participate in the day-to-day affairs of the matrimonial household. It is submitted that no specific act of cruelty or dowry demand is attributable to either of them individually, and that their apprehended implication, if any, would be a case of general and undifferentiated implication of relatives residing separately — a pattern this Hon'ble Court and the Hon'ble Supreme Court have repeatedly cautioned against in matrimonial-cruelty complaints of this kind, as more fully set out in Ground V below.

B. NATURE AND BASIS OF THE APPREHENSION OF ARREST

9. That the offences under Sections 85 and 86 of the Bharatiya Nyaya Sanhita, 2023, being non-bailable and cognizable in nature, an arrest, in the event the apprehended complaint is filed and registered as a First Information Report, could follow without any further notice to the Applicants, exposing them to the real and imminent risk of custodial deprivation of liberty before any opportunity to place their own version before an investigating or judicial authority.

10. That the Applicants' apprehension of arrest is not vague, fanciful, or based on mere conjecture. It rests on specific and reliable information — namely, that Respondent No. 2 has approached, or is on the verge of approaching, counsel with

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the specific and articulated intention of filing a complaint under the very sections named herein — which is precisely the kind of concrete, fact-based apprehension that this Hon'ble Court is entitled to, and ought to, act upon in the exercise of its jurisdiction under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

11. That it is well settled that the filing of a First Information Report is not, and has never been, a condition precedent to the exercise of jurisdiction under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding to the erstwhile Section 438 of the Code of Criminal Procedure, 1973), and that an applicant need only demonstrate a reasonable, fact-based apprehension of arrest for a non-bailable offence, whether or not any proceeding is, as yet, pending against the applicant [Gurbaksh Singh Sibbia v. State of Punjab, 1980 AIR 1632; 1980 SCR (3) 383]. The Hon'ble Supreme Court has held that this power is deliberately conceived in wide terms and is not to be hedged in by extra-statutory conditions not found in the provision itself, precisely so that a citizen with a genuine and well-founded apprehension of arrest is not compelled to wait, exposed to that risk, until an FIR is actually registered against him.

C. GROUNDS FOR GRANT OF ANTICIPATORY BAIL

GROUND I — The apprehension of arrest is reasonable, specific, and properly invokes this Hon'ble Court's jurisdiction at the pre-FIR stage.

12. That, as set out in paragraphs 9 to 11 above, the present application is founded on a real, specific, and well-articulated apprehension of arrest, and not on a general fear shared by every person facing the possibility of a criminal complaint. It is submitted that the width of the jurisdiction under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, as explained in Gurbaksh Singh Sibbia (supra), exists precisely to protect a person in the Applicants' position — one who has credible, specific information of an impending complaint, but against whom no FIR has yet been registered — from having to choose between surrendering to an arrest that has not yet occurred and living under a continuing, unaddressed threat to personal liberty.

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GROUND II — Arrest ought not to be automatic or mechanical in a complaint of this kind.

13. That the Hon'ble Supreme Court has repeatedly and consistently held that arrest in complaints of matrimonial cruelty ought not to be automatic or mechanical, and that the Investigating Officer is bound to record reasons for the necessity of arrest, applying the statutory factors governing arrest, before effecting the same [Arnesh Kumar v. State of Bihar and Another, [2014] 8 S.C.R. 128; Satender Kumar Antil v. Central Bureau of Investigation and Another, [2022] 10 S.C.R. 351]. It is submitted that this obligation applies with full force to the complaint apprehended in the present case, and that nothing in the nature of the allegations apprehended to be made — which concern events said to have occurred within the four walls of a matrimonial home, capable of being investigated through documents, communications, and witness statements already available to Respondent No. 2 — discloses any necessity for the Applicants' custodial arrest in the first instance.

14. That the same line of authority makes clear that the power of arrest and the necessity for arrest are two separate questions, and that an Investigating Officer must be satisfied, on the touchstone of the statutorily prescribed factors, that arrest is actually necessary — whether to prevent the person from committing a further offence, to properly investigate the offence, to prevent tampering with evidence, or to ensure the person's presence in court — none of which, it is submitted, arises on the facts apprehended in the present matter.

15. That this position now stands expressly codified in Section 35 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the code governing the offences named herein. Sections 85 and 86 of the Bharatiya Nyaya Sanhita, 2023, being punishable with imprisonment extending to three years, fall within the class of offences covered by Section 35(1)(b) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (offences punishable with imprisonment up to seven years), for which Section 35(3) obliges a police officer to issue a notice of appearance in place of arrest, and Section 35(5) bars the arrest of a person complying with such notice save upon reasons recorded that arrest has become necessary. It has since been authoritatively held that, for offences within this class, a notice under Section 35(3) is the rule and an arrest under Section 35(6) read with Section 35(1)(b) is a

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clear exception, to be exercised only on fresh material not available at the time the notice was issued [Satender Kumar Antil v. Central Bureau of Investigation and Another, [2026] 1 S.C.R. 1882 : 2026 INSC 115, decided 15 January 2026, paragraphs 29 to 31 and 33]. It is submitted that this statutory and judicial position independently and additionally supports the grant of the protection sought.

GROUND III — Protection, once granted, ought to continue without being cut short at an intermediate stage.

16. That it is now well settled that an order of anticipatory bail does not automatically expire at any particular stage of the proceedings, such as the filing of a chargesheet or the framing of charge, and that its protection continues, in the ordinary course, till the conclusion of the trial, unless a more restricted order is specifically warranted on the facts of a given case, or the protection is cancelled for good and sufficient reason [Sushila Aggarwal and Others v. State (NCT of Delhi) and Another, [2020] 2 S.C.R. 1]. It is submitted that no circumstance exists, or is apprehended, in the present matter that would warrant any curtailment of the protection sought, and that the ordinary rule affirmed in Sushila Aggarwal (supra) ought to apply in full.

GROUND IV — Any conditions imposed ought to be reasonable and proportionate, not punitive.

17. That while the Applicants are agreeable to abide by all reasonable conditions this Hon'ble Court may deem fit to impose, it is submitted that any such conditions ought to be reasonable and proportionate to the purpose they are meant to serve, and ought not to be so onerous, intrusive, or open-ended as to defeat the very protection being granted [Sudeep Chatterjee v. State of Bihar and Another, [2024] 8 S.C.R. 662]. It is submitted that standard conditions — cooperation with investigation, availability for interrogation as and when required, and a bar on tampering with evidence or influencing witnesses — would adequately secure the interests of a fair investigation without requiring any condition of a punitive character.

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GROUND V — The apprehended implication of Applicant Nos. 2 and 3, the parents of Applicant No. 1, is a case of general and omnibus implication of the kind repeatedly cautioned against.

18. That the Hon'ble Supreme Court has, on more than one occasion, expressed concern at the tendency, in complaints of matrimonial cruelty, to array every relative of the husband — parents, siblings, and even more distant relations — as an accused, without any specific or particularised allegation against each individually, and has cautioned courts and investigating agencies against permitting such omnibus, undifferentiated implication to proceed unchecked [Rajesh Sharma and Others v. State of U.P. and Another, [2017] 9 S.C.R. 529; Preeti Gupta and Another v. State of Jharkhand and Another, [2010] 9 S.C.R. 1168]. This caution has been most recently reaffirmed on materially similar facts — a husband and his relatives implicated in a matrimonial-cruelty complaint — where general and sweeping allegations, unaccompanied by any specific instance of criminal conduct, were held to amount to an abuse of the process of court [Achin Gupta v. State of Haryana and Another, [2024] 6 S.C.R. 129, paragraphs 25 and 28].

19. That in the present case, Applicant Nos. 2 and 3 reside separately from Applicant No. 1 and Respondent No. 2, played no part in the day-to-day affairs of the matrimonial household, and no specific act of cruelty or dowry demand is, to the Applicants' knowledge, attributable to either of them individually. It is submitted that their apprehended implication, if any, would fall squarely within the pattern of general, undifferentiated implication that the above authorities caution against, and constitutes an independent and compelling ground for extending the protection of anticipatory bail to Applicant Nos. 2 and 3 in particular.

GROUND VI — Personal antecedents, roots in society, and absence of any likelihood of the Applicants absconding or evading the process of law.

20. That the Applicants are permanent residents of XXXX, XXXXXX Pradesh, have deep and longstanding roots in the community, are gainfully occupied, and have no criminal antecedents of any kind. It is submitted that persons so situated present no risk of absconding or evading the process of law,

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and that the ordinary object of arrest — securing the presence of an accused for investigation and trial — is fully answered by the Applicants' continued, verifiable presence at their known and stable addresses, without the necessity of custody.

GROUND VII — The nature of the apprehended allegations does not warrant custodial interrogation.

21. That the allegations apprehended to be made, even taken at their highest, concern matters said to have occurred within the matrimonial household, in respect of which the evidence — to the extent any exists — would ordinarily take the form of documents, communications, and the testimony of persons already known to Respondent No. 2, none of which requires the Applicants' custodial presence to investigate, discover, or preserve. It is submitted that no case is made out, even hypothetically, for custodial interrogation as opposed to interrogation upon notice, and that this Hon'ble Court has consistently recognised such considerations as germane to the exercise of the anticipatory bail jurisdiction.

GROUND VIII — No prejudice would be caused to Respondent No. 2 or to a fair investigation by the grant of the relief prayed for.

22. That the Applicants undertake full cooperation with any investigation that may follow, and it is submitted that nothing would be lost to a fair and effective investigation by the grant of anticipatory bail on reasonable conditions, whereas real, immediate, and in certain respects irreversible prejudice — to reputation, livelihood, and personal liberty — would follow its refusal, particularly given that the apprehended complaint is, as submitted above, a counterblast to the breakdown of a marriage rather than a report of an offence requiring urgent custodial intervention.

D. UNDERTAKINGS

23. That the Applicants undertake to fully cooperate with the investigation, if any, to appear before the Investigating Officer as and when required, and not to tamper with any evidence or influence any witness in any manner whatsoever.

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24. That the Applicants undertake not to leave the territorial jurisdiction of the Investigating Officer without prior intimation, and to surrender their passports, if any, to the Investigating Officer, or to this Hon'ble Court, if and to the extent this Hon'ble Court considers such a condition necessary.

25. That the Applicants further undertake to abide by any and all conditions this Hon'ble Court may deem fit to impose, it being submitted, for the reasons set out in Ground IV above, that any such conditions ought to be reasonable and ought not to be so onerous as to defeat the very purpose of the protection sought.

E. NO PRIOR APPLICATION

26. That the Applicants have not filed any earlier application for anticipatory or regular bail in connection with the apprehended complaint referred to herein, before this Hon'ble Court or any other Court of competent jurisdiction, and no such application is pending anywhere.

F. BONA FIDES

27. That the present application is bona fide and is filed in the interest of justice, in anticipation of a specific and reliably apprehended complaint, and not by way of any tactic to delay or defeat a genuine investigation. It is submitted that no prejudice would be caused to Respondent No. 2 or to the investigation, if any, by the grant of the relief prayed for, for the reasons set out above.

PRAYER

It is, therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to:

(a) admit the Applicants to anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in the event of their arrest in connection with the complaint apprehended to be filed under Sections 85 and 86

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of the Bharatiya Nyaya Sanhita, 2023, on such reasonable terms and conditions as this Hon'ble Court may deem fit; and

(b) pass any other order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

AND FOR THIS ACT OF KINDNESS, THE APPLICANTS SHALL, AS IN DUTY BOUND, EVER PRAY.

APPLICANTS

THROUGH

XXXXX XXXXX, Advocate (Enrolment No. XX/XXXX/2018), XXXX, XXXXXX Pradesh

ADVOCATE FOR THE APPLICANTS

PLACE: XXXX

DATE: 00.00.2026

VERIFICATION

Verified at XXXX on this ___ day of _____, 2026, that the contents of paragraphs 1 to 27 of the above application are true and correct to the best of my knowledge, information, and belief, and that nothing material has been concealed therefrom.

APPLICANT NO. 1

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ANNEXURES

The following pages illustrate the supporting annexures that customarily accompany an application of this kind, as per applicable law and judicial practice.

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ANNEXURE A

VAKALATNAMA

This annexure is illustrative only. It does not pertain to any real person or matter and is not a copy of any document actually filed in any proceeding. It is included solely to demonstrate the form such a document is required to take as per applicable law and judicial precedent.

BEFORE THE COURT OF THE LD. SESSIONS JUDGE, XXXX, XXXXXX PRADESH

ANTICIPATORY BAIL APPLICATION NO. ____ OF 2026

(Under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023)

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IN THE MATTER OF:

Mr. X & Ors.

...APPLICANTS

VERSUS

STATE & Anr.

...RESPONDENTS

I/We, the Applicant(s) named above, do hereby appoint, engage, and authorize XXXXX XXXXX, Advocate (Enrolment No. XX/XXXX/2018), XXXX, XXXXXX Pradesh, to appear, act, and plead on my/our behalf in the above-noted matter, before this Hon'ble Court or before any other Court or Authority to which the matter may be transferred, and in any appeal, revision, or other proceeding arising therefrom, and to do all acts, deeds, and things which may be necessary or

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expedient for the proper and effectual conduct and prosecution of the said matter, including but not limited to:

1. To file, sign, verify, present, and, where necessary, withdraw applications, petitions, affidavits, and other documents on my/our behalf;

2. To accept summons, notices, and other processes issued in the said matter;

3. To adduce evidence and, where applicable, examine and cross-examine witnesses;

4. To compromise, settle, refer to arbitration, withdraw, or abandon the said matter, in whole or in part, on my/our instructions;

5. To engage the assistance of other Advocate(s) in the conduct of the said matter, at the said Advocate's discretion;

6. To do all other acts and things as may be necessary for the effective prosecution and conduct of the said matter.

AND I/We do hereby agree to ratify and confirm all acts lawfully done by the said Advocate in pursuance of the authority hereby conferred.

IN WITNESS WHEREOF I/We have signed this Vakalatnama on this ___ day of _____, 2026, at XXXX.

Mr. X

APPLICANT NO. 1

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Mr. X's Father

APPLICANT NO. 2

Mr. X's Mother

APPLICANT NO. 3

ACCEPTED:

XXXXX XXXXX, Advocate

Enrolment No. XX/XXXX/2018

XXXX, XXXXXX Pradesh

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ANNEXURE B

AFFIDAVIT IN SUPPORT OF THE APPLICATION

This annexure is illustrative only. It does not pertain to any real person or matter and is not a copy of any document actually filed in any proceeding. It is included solely to demonstrate the form such a document is required to take as per applicable law and judicial precedent.

BEFORE THE COURT OF THE LD. SESSIONS JUDGE, XXXX, XXXXXX PRADESH

ANTICIPATORY BAIL APPLICATION NO. ____ OF 2026

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IN THE MATTER OF:

Mr. X & Ors.

...APPLICANTS

VERSUS

STATE & Anr.

...RESPONDENTS

I, Mr. X, S/o Mr. X's Father, aged about 34 years, presently residing at XXX, XXXXX Apartments, XXXXX Nagar, XXXX, XXXXXX Pradesh, do hereby solemnly affirm and state as under:

1. That I am Applicant No. 1 in the above-noted anticipatory bail application and am well conversant with the facts and circumstances of the case, being competent to swear this affidavit.

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2. That the contents of paragraphs 1 to 27 of the accompanying Anticipatory Bail Application have been read over and explained to me in the language I understand, and the same are true and correct to the best of my knowledge, information, and belief, and nothing material has been concealed therefrom.

3. That this affidavit is sworn in support of the accompanying application and for no other purpose.

DEPONENT

VERIFICATION

Verified at XXXX on this ___ day of _____, 2026, that the contents of the above affidavit are true and correct to the best of my knowledge and belief, and that no part of it is false and nothing material has been concealed therefrom.

DEPONENT

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ANNEXURE C

ANNEXURE

“Copy of FIR”

(where an FIR has been registered)

This is a third-party or official record, not a document drafted by any legal-services provider, and is therefore not illustrated here. Its place in a complete filing is shown only to reflect what applicable law and judicial precedent require such a filing to contain.

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ANNEXURE D

ANNEXURE

“Identity and Residential Proof”

This is a third-party or official record, not a document drafted by any legal-services provider, and is therefore not illustrated here. Its place in a complete filing is shown only to reflect what applicable law and judicial precedent require such a filing to contain.

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