IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2419 OF 2026

Sumit Kishor Kriplani …Applicant
Versus
The State of Maharashtra …Respondent

WITH

INTERIM APPLICATION NO.3129 OF 2026

IN

ANTICIPATORY BAIL APPLICATION NO.2419 OF 2026

Ravindra Subhas Deshmukh …Applicant
IN THE MATTER BETWEEN:
Sumit Kishor Kriplani …Applicant
Versus
The State of Maharashtra …Respondent

Mr. Kushal Mor a/w. Mr. Apoorv Srivastava, Mr. Vaibhav Hari, Mr. Tanvir Kazi and Mr. Chaitanya Sapkal, for the Applicants.
Mrs. Savita M. Yadav, APP, for Respondent-State.
Mr. Abhishek Kulkarni a/w. Mr. Sagar Wakale, for the Intervenor/First Informant.
Mr. Nikumbh, Police Constable, attached to Igatpuri Police Station, Nashik Rural, Nashik, present.

CORAM: MADHAV J. JAMDAR, J.
DATED : 1st OCTOBER 2026

PC:-

1. Heard Mr. Mor, learned Counsel appearing for the Applicant, Mr. Kulkarni, learned Counsel appearing for the Intervenor/First

Informant and Mrs. Yadav, learned APP appearing for the Respondent-State.

2. This application is filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("**BNSS**") seeking pre-arrest bail in connection with C.R. No.179 of 2026 registered with Igatpuri Police Station, Nashik Rural, Nashik, for the offences punishable under Sections 105 and 3(5) of the Bharatiya Nyaya Sanhita, 2023 ("**BNS**").

3. It is the submission of Mr. Mor, learned Counsel appearing for the Applicant that the incident has taken place after swimming pool timings were over. Learned Counsel submits Notice Boards were installed regarding swimming pool timings. He submits that the incident had taken place at about 07:30 p.m. and the swimming pool timings are from 09:00 a.m. to 06:00 p.m. He Submits that during said period of 09:00 a.m. to 06:00 p.m security guards/ life guards are provided. He relies on the decision of the Supreme Court in the case of ***Shantibhai J. Vaghela & Anr. vs. State of Gujarat & Ors.***[1],and more particularly on paragraphs 24

1 (2012) 13 SCC 231

and 25 and submitted that in an identical factual position the Supreme Court has held that Section 304 of the Indian Penal code will not be applicable. He therefore, submits that the Applicant is not involved in the crime. He therefore, prays that relief of per-arrest bail be granted.

4. On the other hand, Mrs. Yadav, learned APP appearing for the Respondent-State strongly opposed the Anticipatory Bail Application. Learned APP submits that as the security guards and life guards were not available at the relevant time, a child aged 3.5 years had passed away. She submits section 105 of BNS is squarely applicable to the present case and therefore application be rejected.

5. Mr. Kulkarni, learned Counsel appearing for the First Informant in addition to the above submissions relies on the Government Resolution dated 4th November 2015 issued by the Urban Development Department, Government of Maharashtra, which mandates the compulsory appointment of lifeguards at swimming pools. He also relies on the order of a learned Single Judge (Aurangabad Bench) dated 16th July 2026 passed in

Anticipatory Bail Application No.2248 of 2025 and more particularly, on paragraphs 8 and 9 of the said order.

6. The prosecution case is set out in paragraph No.5 of the Anticipatory Bail Application, which reads as under:

> *"5. The Applicant states that the alleged case of prosecution as per the FIR is as follows:*
>
> *i) The Complainant, Ravindra Subhash Deshmukh, aged about 39 years, is employed as a Police Constable at Police Station Cantonment, Chhatrapati Sambhajinagar City. He resides at Chhatrapati Sambhajinagar with his wife Namrata and their two sons, namely Rudraksh, aged 12 years, and Agastya, aged about 3½ years.*
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> *ii) The Complainant and his fellow police personnel were scheduled to complete 20 years of service on 31 July 2026. Accordingly, they decided to organize a family get-together for the members of their police batch. The arrangements for the said get-together were undertaken by Police Constable Rafiq Sheikh and Police Inspector Kiran Bidwe, Police Station Bhokardan, District Jalna.*
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> *iii) For the said get-together, Manas Lifestyle Resort, Igatpuri, was selected as the venue. In connection with the booking, the Complainant's batchmate Swapnil Rajput, Nashik, contacted the owner of the resort, Sumit Kriplani, and*

facilitated communication between the organizers and the resort management.

iv) On 29 June 2026, Police Inspector Kiran Bidwe spoke to Sumit Kriplani regarding the proposed get-together. It was specifically informed to him that approximately 40-45 families, including small children, would be attending the event. Kiran Bidwe accordingly requested the resort management to take adequate precautions and make proper arrangements for the safety of the children. Sumit Kriplani allegedly assured them that there was no need for concern and that the entire responsibility would be that of the resort management. He thereafter provided the contact details of Saurabh Kamble, the Booking Manager, stating that he would make the necessary arrangements.

v) Thereafter, Kiran Bidwe contacted Saurabh Kamble on several occasions in connection with the proposed event. On 7 July 2026, Rafiq Sheikh and Ravindra Pankade, who had been appointed as the Event Manager, visited the resort for a spot inspection. Saurabh Kamble showed them the resort and its facilities.

vi) During the said visit, Rafiq Sheikh informed Saurabh Kamble that the get-together was scheduled to take place from 26 July 2026 to 27 July 2026, and that approximately 40-45 families, including small children, comprising around 155-160 persons, would be attending. He also explained the proposed programme to the resort management.

vii) It was specifically brought to the attention of Saurabh Kamble that the swimming pool would

remain open and that, since several small children would be present, there was a possibility of an untoward incident. Rafiq Sheikh therefore requested that two additional security guards be deployed at the swimming pool during the event and that adequate safety arrangements be maintained. Saurabh Kamble allegedly assured them that they need not worry and that the entire responsibility would be borne by the resort management.

viii) The aforesaid information was thereafter shared by Rafiq Sheikh on the WhatsApp group of the police batch, following which the members consented to the booking of the resort. In the period leading up to the event, Kiran Bidwe and Rafiq Sheikh remained in contact with Saurabh Kamble over telephone and WhatsApp regarding the arrangements.

ix) On 26 July 2026, approximately 40 families and around 155-160 persons, including children, travelled from Chhatrapati Sambhajinagar to Manas Lifestyle Resort, Igatpuri. The group travelled in three privately hired Traveller vehicles, while another two to three families travelled in private vehicles. They reached the resort at approximately 2:00 p.m. and met Parag Trivedi, the Resort Manager, who provided them lunch.

x) The Complainant states that certain deficiencies were noticed in the arrangements immediately upon arrival. The seating arrangement for lunch was allegedly inadequate and the lift was not functioning while the guests were carrying their luggage to their rooms. Kiran Bidwe consequently complained to Parag Trivedi and also contacted Saurabh Kamble. Kiran Bidwe

specifically reiterated to Parag Trivedi that, since small children were present, special attention was required to be given to the swimming pool.

xi) The Complainant was allotted Room No. 43, situated above the swimming pool. Prior to the main event, some of the families, including children, spent some time playing in the swimming pool. Thereafter, the families proceeded to the Banquet Hall for the scheduled event.

xii) After the first event in the Banquet Hall concluded, the members of the group proceeded to change their clothes and were expected to return to the hall after approximately half an hour for the subsequent event. ***During this interval, the Complainant's minor son Agastya, aged about 3½ years, allegedly slipped away from the gathering unnoticed while playing. The Complainant and his companions initially searched for him in the Banquet Hall but could not locate him.***

xiii) ***At about the same time, the wife and son of one of the members of the group, namely Tarte, were proceeding from the swimming-pool area towards their room. They allegedly noticed Agastya lying in the swimming pool and raised an alarm. Upon hearing the alarm, Ravindra Salve immediately rushed towards the swimming pool, removed Agastya from the water, attempted to remove water from his stomach and administered CPR. The Complainant and his wife thereafter reached the spot and immediately took Agastya to Ganpati Small Children's Hospital at Ghoti for medical treatment. The doctors examined Agastya and declared him dead.***

xiv) ***Following the incident, members of the group immediately examined the CCTV footage of the resort. According to the Complainant, the footage revealed that Agastya had gone towards the swimming pool without the family's knowledge. It was further alleged that there were no adequate safety arrangements, security guards, lifeguards or barricading at the swimming pool, despite the instructions allegedly given to the resort management and the standards prescribed by the Government.***

xv) ***According to the Complainant, Agastya had gone towards the swimming pool to retrieve a ball and, while attempting to do so, his foot slipped and he fell into the swimming pool.***

xvi) The Complainant alleges that Sumit Kriplani, owner of Manas Lifestyle Resort, Saurabh Kamble, Booking Manager, and Parag Trivedi, Resort Manager, were aware of the presence of a large number of persons, including several small children, at the resort and were specifically informed in advance about the potential danger posed by the swimming pool. They were also allegedly requested to provide security guards/lifeguards and adequate safety arrangements.

xvii) It is further alleged that, despite having knowledge of the potential danger, the aforesaid persons failed to provide adequate safety arrangements, security guards and lifeguards at the swimming pool during the event and thereby failed to comply with the applicable Government directions concerning swimming pools. The Complainant consequently attributes the death of his minor son, Agastya Deshmukh, to the alleged omissions and acts of the said persons.

> *xviii) On the basis of the aforesaid allegations, the Complainant lodged the present FIR at Igatpuri Police Station on 29 July 2026, alleging commission of offences punishable under Sections 105 and 3(5) of the Bharatiya Nyaya Sanhita, 2023, and sought appropriate legal action against the persons named therein.*"
>
> **(Emphasis added)**

7. Perusal of the record shows that the incident had taken place at about 07:30 p.m., on 26th July, 2026 where a child of 3.5 years went to the swimming pool to retrieve a ball and while attempting to do so, fell into the swimming pool. Admittedly, neither security guards nor lifeguards were available at the swimming pool at that time. It is the contention of learned Counsel appearing for the Applicant, that since the swimming pool timings were over when the incident had occurred, it was not necessary to have security guards or lifeguards present. However, it is required to be noted that the Applicant is the owner of the resort where the said swimming pool is situated. The Applicant is commercially exploiting the said resort. There was no cover put up on the said swimming pool or the said area is closed so that nobody can enter the said area. Even the Security guards were also not deployed at the said place.

8. In the light of above factual position it is necessary to consider Section 105 of the BNS, which is as under:

> "***Whoever commits culpable homicide not amount to murder****, shall be punished with imprisonment for life, or imprisonment of either description for a term which shall not be less than five years but which may extend to ten years, and shall also be liable to fine, if the act by which the dealth is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death;* ***or with imprisonment of either description for a term which may extend to ten years and with fine, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.***"

(Emphasis added)

9. Thus, what is significant is that if the act of accused by which death has caused is done with knowledge that it is likely to cause death but without any intention to cause death or to cause such bodily injury as is likely to cause death, then Section 105 of BNS is attracted.

10. It is very clear that the first part of Section 105 of BNS will not apply to the present case, however, second part of Section 105

of BNS where if the act is done with the knowledge that it is likely to cause death but without any intention to cause death or to cause such bodily injury as is likely to cause death will apply to the present case. The said resort is commercial activity of the applicant. Admittedly, the Applicant is owner of the resort where the swimming pool is situated. Admittedly, after 06:00 p.m. neither the security guards nor the life guards were available in the area of Swimming pool. The said swimming pool is not covered nor even the said area is closed or barricaded.

11. It is the submission of learned Counsel appearing for the Applicant that adequate Notice Boards were put up at swimming pool, stating that the timings of the swimming pool are from 09:00 a.m. to 06:00 p.m.. However, even it is nor the contention of the learned counsel of the applicant that the swimming pool is covered after 06:00 p.m. or the said are is closed/barricaded so that nobody can enter the said area. It is admitted position that after 6:00 p.m even security guards were also not appointed for the said area. Thus, the second part of Section 105 of BNS is squarely applicable to the present case.

12. Although learned Counsel appearing for the Applicant has very heavily relied on the decision of the Supreme Court in the case of ***Shantibhai J. Vaghela*** (supra), the facts of that case are that there is a river just adjoining the Ashram and the allegation was that due to the negligence of the Ashram, the incident had taken place. However, in that case, admittedly, the said river was not in the property of the said Ashram. In this case, admittedly, the swimming pool is in the property of the Applicant where the Applicant is having a resort. The Applicant is commercially exploiting the same. It was the Applicant's duty to safeguard the said swimming pool all times irrespective of the timings. *Prima facie*, Section 105 of the BNS is applicable to the present case. The offence is very serious where a child of 3.5 years has lost his life. It is not expected that the child of 3.5 years will look at the Notice Board and will not enter the said area. Admittedly, the Security guard is not stationed in the said area of swimming pool and neither barricades are put to ensure that nobody enters the said area after 06 p.m and therefore, *prima facie,* crime under Section 105 of BNS is made out.

13. Accordingly, no case is made out for grant of anticipatory bail.

14. The Anticipatory Bail Application is dismissed.

15. In view of the disposal of the Anticipatory Bail Application, nothing survives in the Interim Application and the same is also disposed of.

16. It is clarrified that observation in this order are *prima facie* and made for consideration of Anticipatory Bail of the Applicant.

[MADHAV J. JAMDAR, J.]