



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1723 OF 2024

Kayamoddin Kutubuddin Shaikh
Age : 36 years, Occu: Agriculture,
R/o: Village Deogav, Taluka Newasa,
District Ahmednagar.

... Applicant

Versus

State of Maharashtra
Through Police Inspector,
Newasa Police Station.

... Respondent

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Mr. Ajinkya A. Joshi h/f Mr. Sharad V. Natu, Advocate for the
Applicant.

Mr. S. K. Shirse, APP for the Respondent-State.

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WITH

CRIMINAL APPLICATION NO. 4283 OF 2024

IN

ANTICIPATORY BAIL APPLICATION NO. 1723 OF 2024

Manisha w/o Swapnil Garad,
Age : 26 years,
Occupation: Household/Agriculture,
At Soundala, Post Bhende (Bk),
Taluka Newasa,
District : Ahmednagar – 414 605

... Applicant
[Informant]

Versus

1. Kayamoddin s/o Kutubuddin Shaikh @
Bhaiya @ Kayyumoddin Kutubudd (As per F.I.R.)
Age: Unknown, Occupation: Unknown,
R/o. Deogaon, Newasa,
District Ahmednagar.

2. The State of Maharashtra
Through its Police Inspector,
Newasa Police Station,
Ahmednagar.

... Respondents.

.....

Mr. N. S. Shah, Advocate for the Applicant.

Mr. Ajinkya A. Joshi h/f Mr. Sharad V. Natu, Advocate for Respondent No.1.

Mr. S. K. Shirse, APP for the Respondent No.2-State.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 21.10.2024

Pronounced on : 23.10.2024

ORDER :

1. Apprehending arrest in crime no. 1100 of 2023 registered at Newasa Police Station, District Ahmednagar for offence punishable under sections 354, 327, 324, 323, 504, 506, 143, 147, 148, 149 of the Indian Penal Code [IPC] and Section 3/25 of the Arms Act, the applicant is seeking pre arrest bail.

2. Informant has also filed application seeking permission to assist the APP during hearing of the Anticipatory Bail Application. For the reasons mentioned in the application, applicant-informant is permitted to assist learned APP. Criminal Application No. 4283 of 2024 is accordingly disposed off.

3. Learned counsel for the applicant in Anticipatory Bail Application No. 1723 of 2024, at the outset points out that this is successive anticipatory bail application. Previous one was rejected by this Court by order dated 10.05.2024. That, now almost for 11 months there is no progress in the investigation and chargesheet is also not filed. There is no proper explanation as to why custody of applicant is required. According to learned counsel, failure of investigating machinery to not to file chargesheet for long duration is itself a change of circumstance and hence learned counsel points out that, as applicant is ready to co-operate in the investigation, pre arrest bail be granted.

4. Learned APP as well as learned counsel for the informant who is assisting learned APP, both have resisted on the ground that there is no change of circumstance. There are allegations of possessing illegal arms. The same is to be recovered. Learned APP pointed out that there are several reasons assigned by the Investigating Officer while opposing anticipatory bail application. That, entire investigation is held up for want of recovery and hence, for all above reasons, application is resisted.

5. After hearing both sides and on going through the papers, it seems that on 23.11.2023, above crime was registered at Newasa Police station. In all six accused were named in above crime and present applicant is accused no.2. Admittedly, previous anticipatory bail application was turned down by this Court on the precise reason that there are allegations of possessing arms and one girl had noticed him holding such arms. Now also, investigating machinery has opposed on the precise ground that said weapon is to be seized and investigation is held up. Submission made by learned counsel for the applicant that, failure to file chargesheet for sufficiently long duration is itself a change of circumstance, has no substance. Crime is of 2023. Now we are on the verge of completing 2024. Therefore, as no case is made out, following order is passed :

ORDER

Anticipatory Bail Application No. 1723 of 2024 is rejected.

[ABHAY S. WAGHWASE, J.]