



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
ANTICIPATORY BAIL APPLICATION NO. 585 OF 2025

Swapnil Alias Golu Dharmaraj Thakur

Versus

The State of Maharashtra

Mr. Bhushan Mahajan for the Applicant.

Mrs. M. L. Sangit, APP for the State.

CORAM : ADVAIT M. SETHNA, J.

DATE : 4 AUGUST 2025

P. C.:

1. Heard learned counsel for the parties.
2. At the very outset, the attention of the Court was drawn to the order dated 24 April 2025, by which the Applicant was protected. With the assistance of the learned counsel for the parties, I have carefully perused the said order. Paragraphs 3 and 4 of the said order are relevant. In paragraph 5 of the said order, the Applicant has been put to certain terms and conditions.
3. At this stage, Mrs. Sangit, learned APP would not deny that the Applicant was placed with an externment order. The prosecution does not dispute that he has not influenced the informant, witnesses and/or tampered with the evidence as specifically set out as a condition in paragraph 5 of the said order. The prosecution also does not dispute that he has co-operated with the investigation. It would at this stage therefore be inferred that the Applicant has duly joined the investigation. As far as the requirement of *prima facie* case is concerned, Mrs. Sangit has strenuously

urged that there are statements of the co-accused from whom the name of this particular accused person has surfaced. Not just that but one of the co-accused persons has clearly taken the name of the present Applicant, who was found to be on the spot. Mrs. Sangit would also submit that the Applicant has criminal antecedents, he has been engaged in the similar activities in the past. However, it is trite law that the judicial decisions on the aspect of criminal antecedents make it clear that there is no straight jacket formula to the fact that solely relying on the criminal antecedents the Anticipatory Bail Application ought to be rejected only on such ground overlooking the vital requirement of *prima facie* case coupled with the necessity of custodial interrogation. Ultimately every case will have to be decided on its own distinct and unique facts and circumstances, where in the present case there is a factual matrix. There is nothing shown by the prosecution as to how such criminal antecedents would have any impact in the given factual complexion.

4. At this stage, it is apposite to refer to a decision of the Supreme Court in the case of ***P Krishna Mohan Reddy Vs. The State of Andhra Pradesh***¹ dated 16 March 2025 that the statements of accused persons recorded under Section 161 of CrPC cannot be used against co-accused at the stage of anticipatory bail or regular bail. There is no explanation given in this regard by the prosecution at this stage. It is also admitted position that

¹ 2025 INSC 725

the Pistol has been recovered from the house of the co-accused person i.e. Ankit More. In such factual matrix, there is no satisfactory explanation coming from the prosecution as to why the custodial interrogation at this stage would be necessary and what purpose would be further served by such custodial interrogation. It may not be out of place to also mention that the order dated 24 April 2025, passed by this Court was after notice. The presumption therefore is that the prosecution had all the liberty to place the relevant documents and record from the case diary/investigation material before the Court.

5. For the reasons above, it appears that nothing adverse on the editive of *prima facie* case has been shown against the Applicant after the order dated 24 April 2025. There is no explanation forthcoming on the instance of physical custody of the Applicant at this stage. For all such reasons, it would be just and proper to confirm the order dated 24 April 2025 by passing the following order:-

ORDER

- (i) In the event of arrest of the Applicant in connection with CR No.0009 of 2025 registered with Chalisgaon Police Station, District Jalgaon for the offences punishable under Sections 351(3), 324(6), 191(3), 190, 125, 37(3), 37(1), 135, 3, 27 and 25 of the BNS, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.20,000

(Rupees Twenty Thousand Only) with one or more sureties in the like amount.

- (ii) The Applicant shall cooperate with the investigation and shall attend the concerned police station as and when called by the Investigating Officer, until filing of the charge-sheet.
- (iii) The Applicant shall furnish details of residential address and other contact details such as mobile number etc. to the concerned police station. If there is any change in the contact details, the same shall be immediately intimated to the concerned police station.
- (iv) The Applicant shall not leave the jurisdiction of the competent Court without prior permission/order of the Court, until filing of the charge-sheet.
- (v) The Applicant shall not influence the witness/es and/or tamper evidence in any manner whatsoever.

6. Needless to mention that the observations made above are *prima facie* for the purposes of adjudicating this Application.

7. The externment order, which is in operation, shall continue subject to and until further orders.

8. The Anticipatory Bail Application is allowed in the above terms.

[ADVAIT M. SETHNA, J.]