



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.

929 ANTICIPATORY BAIL APPLICATION NO. 870 OF 2025

Asir Alias Asif Liyakat Shaikh

VERSUS

The State Of Maharashtra And Others

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Mr. Rahul R. Karpe - Advocate for Applicant

Mr. C. V. Bhadane - APP for State

Mr. Rafique Nijambhai Baig – Advocate for Respondent No. 3

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CORAM : NEERAJ P DHOTE, J.

DATED : 20TH SEPTEMBER, 2025

PER COURT : -

1. This is an Application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking grant of Anticipatory Bail, as the Applicant apprehends arrest in Crime No. 0212/2025 registered with Ahilyanagar Camp Police Station, District Ahilyanagar, for offences punishable under Sections 74, 75, 333, 115(2), 351(2), 351(3), 118(1), and subsequently added Section 64(2) of the Bharatiya Nyaya Sanhita, 2023 [in short 'BNS'].

2. The aforesaid Crime registered on the report lodged by the Prosecutrix / Victim. She is a married woman, having children, and residing at the address mentioned in the FIR. The Applicant is her neighbour. On 03.04.2025, her husband had gone to work and both her children had gone to school. At 10:00 am, while she was alone at her

residence and putting clothes out to dry, she noticed that the Applicant had jumped over the compound wall next to the kitchen of her house. The prosecutrix immediately went to the kitchen and tried to close the door, however, the Applicant pushed the door open and came near her. The Applicant hugged her, touched her private parts by lifting her saree, and demanded sexual favours. The Prosecutrix resisted, and a scuffle took place between them. The Applicant assaulted her and pushed her against the kitchen door. The prosecutrix suffered a bleeding injury to her head. When the Prosecutrix informed her husband about the incident over the telephone, he returned home, took her to the Civil Hospital for treatment, and thereafter lodged the report at the said Police Station.

3. It is submitted by the learned Advocate for the Applicant that, initially the Crime was registered for offences punishable under Sections 74, 75, 333, 115(2), 351(2), 351(3), 118(1) of the BNS. The Police had issued notice under Section 35(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023, which goes to show that there was no necessity to arrest the Applicant. After a period of nine (9) days, the offence of rape i.e. Section 64 of the BNS, was added to the Crime on the basis of the Prosecutrix's statement given before the learned Magistrate under Section 163 of the BNS. It is further submitted that the Applicant's wife had filed a Non-cognizable Report on 05.04.2025 against the Prosecutrix

and her brother in respect of an incident dated 03.04.2025, that they had abused her on account of a quarrel on the point of filling of water. It is submitted that, this shows that the Applicant has been falsely implicated, and therefore, he be protected.

4. The Application is opposed by the learned APP. He submits that the delay will not be of much significance in such cases. The spot panchanama shows pieces of broken bangles. The medical examination of the Prosecutrix shows a head injury. There was also an N.C. lodged by the Prosecutrix against the Applicant, alleging that he had threatened her to withdraw the report. He, therefore, submits that the Application be rejected.

5. Perused the papers on record. Perusal of FIR dated 03.04.2025 shows that, the Prosecutrix reported the incident of assault, use of criminal force and sexual harassment against the Applicant. The incident, as per the FIR, is of 10:00 a.m. in the morning, and on the same day, the FIR was lodged in the evening at 06:43 p.m. The FIR shows that, the prosecutrix informed her husband on the phone, and after he returned, they first went to the Hospital and thereafter to the Police Station. The copy of Injury Certificate dated 03.04.2025 issued by the General Hospital, Ahmednagar, shows a head injury on the parietal region of the prosecutrix. The history of physical assault on

03.04.2025 at 10:00 a.m. is mentioned therein. As per the FIR, the spot of the incident was the kitchen of the prosecutrix's house. The spot panchanama also shows pieces of bangles in the kitchen of the house of the prosecutrix, which corroborates the version of prosecutrix. These aspects show *prima facie* case against the Applicant for the offences under which the FIR was initially registered.

6. As regards the addition of offence of rape by the Applicant on the prosecutrix after a period of nine days, by itself, will not be sufficient to ignore the Prosecutrix's case in the initial FIR. As regards the N.C. lodged by the Applicant's wife for the incident dated 03.04.2025, it was filed on 05.04.2025, i.e. after the prosecutrix had already lodged her report against the Applicant. In this view of the matter, in my considered view, this is not a fit case to grant Anticipatory Bail to the Applicant. Hence, the following order.

ORDER

[i] The Application is rejected.

[NEERAJ P. DHOTE]
JUDGE

SG Punde